

SUBTITLE 7. STATE BOAT ACT

' 8-701. Definitions.

Statute text

- (a) In general.- In this subtitle the following words have the meanings indicated.
- (b) Certificate.- "Certificate" means any certificate of number or title issued.
- (c) Dealer.-
 - (1) "Dealer" means any person who:
 - (i) Engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise; and
 - (ii) Has an established place of business for sale, trade, and display of vessels.
 - (2) "Dealer" includes a yacht broker.
- (d) Governing body.- "Governing body" means the county commissioners, county executive and county council of any county, the Mayor and City Council of Baltimore, and the elected officials of any municipal corporation in the State, subject to Article XI-E of the Maryland Constitution.
- (e) Lienholder.- "Lienholder" means a person holding a security interest.
- (f) Manufacturer.- "Manufacturer" means any person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.
- (g) Motorboat.- "Motorboat" means any vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.
- (h) Operate.- "Operate" means to navigate or otherwise use a vessel.
- (i) Operator.- "Operator" means the person who operates or has charge of the navigation or use of a vessel.
- (j) Owner.-
 - (1) "Owner" means a person, other than a lienholder, having property in or title to a vessel.
 - (2) "Owner" includes a person entitled to use or possess a vessel subject to an interest in another person, reserved, or created by agreement and securing payment of performance of an obligation.
 - (3) "Owner" does not include a lessee under a lease not intended as security.
- (k) Parasailing.- "Parasailing" means a parachute or other device which causes a person to become airborne when towed by a vessel.
 - (l) Security interest.- "Security interest" means an interest which:
 - (1) Is reserved or created by an agreement which secures payment or performance of an obligation; and
 - (2) Is valid against third parties generally.
- (m) Ship lifeboat.-
 - (1) "Ship lifeboat" means a lifeboat used solely for lifesaving purposes.
 - (2) "Ship lifeboat" does not include dinghies, tenders, speedboats, or other types of craft carried aboard a vessel and used for other than lifesaving purposes.
- (n) State of principal use.- "State of principal use" means the state on whose waters a vessel is

used or to be used most during a calendar year.

(o) Title tax.- "Title tax" means the tax imposed under ' 8-716 of this subtitle.

(p) Use.- "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water, whether it is moving, anchored, or tied up to any manner of dock or buoy. A vessel is also in use if it is kept in any structure in readiness for use.

(q) Vessel.-

(1) "Vessel" means every description of watercraft, including an ice boat but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice.

(2) "Vessel" includes the motor, spars, sails, and accessories of a vessel.

(r) Waters of the State.- "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.

History

[An. Code 1957, art. 14B, ' ' 1, 12-I; 1973, 1st Sp. Sess., ch. 4, ' 1; 1986, ch. 828, ' 1; 1988, ch. 188, ' ' 1, 2; 1990, ch. 6, ' 2; ch. 28, ' ' 1, 2; ch. 164; 1996, ch. 10, ' 1.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, inserted present subsection (n), and redesignated the following subsections accordingly.

Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "subtitle the" for "subtitle, the"; in (c), divided the former first sentence into (c) (1), (c) (1) (i) and (c) (1) (ii), and redesignated the former second sentence as (c) (2); substituted "vessels or used" for "vessels, or used" in (c) (1) (i); deleted "who" at the beginning of (c) (1) (ii); rewrote (c) (2); substituted "Baltimore, and" for "Baltimore and" in (d); redesignated the former first sentence of (j) as (j) (1) and divided the former second sentence into (j) (2) and (j) (3); substituted "lienholder" for "lien holder" in (j) (1); substituted "owner" for "the term" and for "it" in (j) (2) and (j) (3), respectively; divided (k) into introductory language, (k) (1) and (k) (2); redesignated the first and second sentences of (l) as (l) (1) and (l) (2), respectively; substituted "ship lifeboat" for "this term" in (l) (2); and rewrote (p).

Chapter 28, Acts 1990, effective July 1, 1990, inserted present (k) and redesignated former (k) through (q) to be present (l) through (r), respectively.

Chapter 164, Acts 1990, effective July 1, 1990, reenacted present (n) without change.

The 1996 amendment, approved Apr. 9, 1996, and effective from date of enactment, substituted "Lienholder" for "Lien holder" in (e).

Editor's note. Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

University of Baltimore Law Review. For note discussing the constitutionality of random and suspicionless boarding of vessel, see 14 U. Balt. L. Rev. 160 (1984).

Subtitle authorizes State marine police to stop and search vessels. - The State Boat Act authorizes, to the limits allowed by the Fourth Amendment, the State marine police to stop and search in State waters a vessel suspected of illegal activity and to assist federal authorities in making such a stop and search. *Blair v. United States*, 665 F.2d 500 (4th Cir. 1981).

Quoted in *County Council v. Maryland Reclamation Assocs.*, 328 Md. 229, 614 A.2d 78 (1992).

' 8-702. Legislative intent.

Statute text

It is the intent of this subtitle to foster the development, use, and enjoyment of all the waters of Maryland. The State shall cooperate to the fullest possible extent with neighboring states and the federal government in connection with assistance and rescue operations and in enforcement of laws and regulations relating to recreational boating safety.

History

[An. Code 1957, art. 14B, ' 3; 1973, 1st Sp. Sess., ch. 4, ' 1.]

Annotations

University of Baltimore Law Review. For note discussing the constitutionality of random and suspicionless boarding of vessel, see 14 U. Balt. L. Rev. 160 (1984).

Subtitle authorizes State marine police to stop and search vessels. - The State Boat Act authorizes, to the limits allowed by the Fourth Amendment, the State marine police to stop and search in State waters a vessel suspected of illegal activity and to assist federal authorities in making such a stop and search. *Blair v. United States*, 665 F.2d 500 (4th Cir. 1981).

Stated in *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

' 8-703. Powers and duties of Department generally.

Statute text

(a) The Department shall administer the provisions of this subtitle. In addition, the Department shall:

- (1) Develop plans, within the limits of available income, for the improvement and promotion of the waters of the State for recreational purposes;
- (2) Promote safety of life and property through an educational program directed to boat owners, boat operators, and others concerning the inherent hazards to vessels and people on the waters, including precautions to be observed, and emergency action;
- (3) Plan a regulatory program and its related cooperation with officials of other states, the federal government, and local governments;
- (4) Improve the State's waterways by deepening channels, acquiring and developing access areas, clearing waterways by removing logs, debris, and other material obstructing or detrimental to navigation, building docks, and clearing waters of aquatic vegetation;
- (5) Cooperate with federal, State, or local agencies which make funds available for the purposes of this subtitle;
- (6) In order to protect life and property, tow disabled vessels on any waters of the State to the nearest safe harbor or to a location where commercial towing facilities are available. The Department may not engage in towing in competition with commercial towing services;
- (7) Designate and mark channels in the waters of the State; and
- (8) By April 1, 1990, for any attended boat launching facility or marina that is owned or operated by the Department on July 1, 1989 or that is purchased, built, or otherwise acquired by the Department on or after July 1, 1989, install a pump-out station on-site at any attended boat

launching facility or marina that is adequate to handle the sewage capacity from vessels expected to use the boat launching facility or marina.

(b) The Department may take possession of any document the Department issues pursuant to this subtitle:

(1) After the document's expiration, revocation, cancellation, or suspension; or

(2) If the document is issued unlawfully or erroneously.

History

[An. Code 1957, art. 14B, ' ' 2, 4, 6, 12, 12A; 1973, 1st Sp. Sess., ch. 4 ' 1; 1989, ch. 755; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1989 amendment, effective July 1, 1989, added (a) (8).

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "the Department" for "it" in the second sentence of the introductory language, and substituted "others concerning" for "others, concerning" in (2); divided the former provisions of (b) into introductory language, (b) (1) and (b) (2); substituted "the Department" for "it" in the introductory language of (b); and substituted "the document" for "it" in (b) (2).

Editor's note. This section has been set forth above to correct a spelling error in (a) (6).

University of Baltimore Law Review. For note discussing the constitutionality of random and suspicionless boarding of vessel, see 14 U. Balt. L. Rev. 160 (1984).

Educational programs not inconsistent with regulations. - Section 8-712.2 (a) (1) of this article shows a legislative intent that boating safety be promoted through education; however, there is no inconsistency between educational programs to promote boating safety and regulations imposing restrictions upon who can operate certain vessels. *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

Nothing in subsection (a) of this section mandates a choice of educational requirements and programs over regulations concerning those persons who may operate particular types of boats. *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

' 8-703.1. Antifouling paints.

Statute text

(a) Development and implementation of educational program.- The Department shall develop and implement by August 1, 1987 an educational program to advise boaters, boatyards, marine suppliers, and other users of antifouling paints on:

(1) The provisions of Title 5, Subtitle 9 of the Agriculture Article, ' 9-321.1 of the Environment Article, and this section;

(2) The toxic propensities to marine life of antifouling paints containing tributyltin compounds; and

(3) The availability of substitute paints.

(b) Publications.- The Department shall:

(1) Publish for use by the public a detailed listing of antifouling paints in use in the State that contain tributyltin and those that do not; and

(2) Publish, to the extent possible, which antifouling paints containing tributyltin have acceptable release rates, as defined in ' 5-901 of the Agriculture Article.

(c) Coordination with State Department of Agriculture, marine trades, etc.- The Department shall develop the educational program under subsection (a) of this section and the materials used in the program in coordination with the State Department of Agriculture and in consultation with the marine trades and with representatives of the boating public.

History

[1987, ch. 304, ' 2; ch. 305, ' 2; ch. 306, ' 15; 1988, ch. 6, ' 11.]

' 8-703.2. Boating regulations for Jennings Randolph Lake.

Statute text

(a) Authorized.- Notwithstanding any other provision of this subtitle, the Department may adopt boating regulations exclusively applicable to Jennings Randolph Lake.

(b) Coordination with West Virginia.- Regulations adopted under this section:

(1) Shall be developed in coordination with the State of West Virginia;

(2) Shall allow for joint enforcement of boating activities by Maryland and West Virginia authorities in accordance with the Jennings Randolph Lake Project Compact; and

(3) May differ from Maryland boating laws that would otherwise apply.

(c) Appropriate provisions.- Regulations adopted under this section may:

(1) Provide age limits for the operation of a vessel;

(2) Establish vessel noise limits;

(3) Impose safety requirements regarding vessels;

(4) Impose other standards and requirements for the operation of a vessel;

(5) Provide for rules of the road for vessels;

(6) Provide requirements regarding the operation of personal watercraft;

(7) Impose restrictions on the operation of vessels while towing an individual on water skis or similar devices; and

(8) Address other areas pertaining to activities at the Jennings Randolph Lake Project that the Department considers appropriate.

History

[1996, ch. 240.]

Annotations

Editor's note. Section 2, ch. 240, Acts 1996, provides that the act shall take effect July 1, 1996.

' 8-704. Regulations of Department.

Statute text

(a) In general.- The Department may adopt regulations necessary to carry out the provisions of this subtitle.

(b) Placement of buoys, mooring buoys, etc.- In order to protect the public safety, welfare, and recreational interests in waters of the State, the Department may adopt a program relating to the placement of buoys, mooring buoys, and other apparatus used to secure, berth, or moor vessels in

the waters of the State. The Department shall consult with any county affected by the program.

(b-1) Subjects of regulations.- The Department shall adopt regulations governing the following:

(1) The numbering of vessels for identification, safety equipment on vessels, and operations of any vessels subject to this subtitle so that each vessel complying with the regulations may be operated with equal freedom or under similar requirements on all waters of the State. The numbering system used shall conform to the one adopted by the federal government. These regulations may not conflict with any federal law or regulation applicable to vessels on the waters in the State;

(2) The issuance of certificates of title and certificates of boat number;

(3) Instructions for making reports and handling personnel and boats in case of accidents;

(4) Abandonment, destruction, theft, recovery, sale, or transfer of ownership;

(5) Change of address of owner;

(6) Use of boats from other jurisdictions on the waters of the State;

(7) Issuance of certificates of number for boats changing their state of principal use to Maryland;

(8) Cooperation with local governments and the federal authority for special events or to meet emergency situations; and

(9) Issuance of certificates of number to owners of fleets or boats for hire or rent.

(c) Advertisement of proposed regulations required; hearing.- Department regulations do not become effective unless advertised publicly in at least 2 daily newspapers of general circulation and at least 1 weekly newspaper serving the area or areas involved at least 45 days before the effective date. If 50 citizens of the State file a petition with the Department at least 15 days prior to the effective date, the Department shall conduct a public hearing on the proposed regulations.

(d) Local regulations.- A municipality or other local authority may not establish any regulation of a local nature which does not conform with the Department's regulations.

(e) Advisory committee for regulations concerning vessel equipment or operation.- On any proposed regulation affecting the equipment or operation of any vessel subject to this subtitle, the Secretary shall solicit the advice and opinions of officials of representative boating associations, yacht clubs, and local, State, or federal governments or officials, having knowledge or experience with the subject matter of the proposed regulations. These representatives and officials serve as an advisory committee appointed by the Secretary to review the proposed regulations.

(f) Sound level limits for operation of pleasure craft.- The Department, with the endorsement of the Secretary of Natural Resources and the Secretary of the Environment, after a public hearing following 60 days' notice, shall adopt and publish sound level limits governing the noise generated by the operation of pleasure craft on the waters of the State. The sound level limits shall be established at the most restrictive level consistent with the environmental noise standards adopted by the Department of the Environment which is achievable through the application of the best available technology and at a reasonable cost. The Department shall adopt regulations for the administration and enforcement of the sound level limits, taking into account accepted scientific and professional methods for measurement of sound levels.

(g) Power boat race courses.- The Department shall adopt regulations to prohibit a person from:

(1) Operating an unauthorized vessel over a power boat race course; or

(2) Swimming across a boundary of a power boat race course.

History

[An. Code 1957, art. 14B, ' ' 8, 10, 12D; 1973, 1st Sp. Sess., ch. 4, ' 1; 1974, ch. 287, ' 10;

1976, ch. 765; 1983, ch. 8; 1985, ch. 627; 1987, ch. 306, ' 3; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, deleted "rules and" preceding "regulations" in (a), the introductory language of (b-1), (b-1) (1), (c), (d), (e) and (g); substituted "vessels, and" for "vessels and" in the first sentence and "law or regulation" for "law, or rule and regulation" in the last sentence of (b-1) (1); substituted "2" for "two" and "1" for "one" in the first sentence of (c); deleted "rule or" preceding "regulation" in (d) and near the beginning of the first sentence of (e); substituted "officials having" for "officials, having" near the end of the first sentence of (e); and in (f), in the first sentence, deleted "shall" following "Department," substituted "days' " for "days," inserted "shall" preceding "adopt," and deleted "not later than January 1, 1976" at the end, substituted "the sound level" for "such" in the second and third sentences, and substituted "adopt" for "promulgate" in the third sentence.

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, inserted a comma following "or officials" in the first sentence of (e).

University of Baltimore Law Review. For note discussing the constitutionality of random and suspicionless boarding of vessel, see 14 U. Balt. L. Rev. 160 (1984).

Broad authority not violative of separation of powers doctrine. - This section grants to the Department the authority to adopt a prohibition against the operation of a particular type of vessel by persons under a certain age; the delegation by the General Assembly of such broad authority does not violate the separation of powers requirement of the Maryland Declaration of Rights. *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

"Waters of the State." - Statutory references to "waters of the State" or "State waters" do not imply a proprietary interest in ground water vested in the State, but are simply generic usage addressing the location of waters within State borders. *Bausch & Lomb, Inc. v. Utica Mut. Ins. Co.*, 330 Md. 758, 625 A.2d 1021 (1993).

Subtitle authorizes State marine police to stop and search vessels. - The State Boat Act authorizes, to the limits allowed by the Fourth Amendment, the State marine police to stop and search in State waters a vessel suspected of illegal activity and to assist federal authorities in making such a stop and search. *Blair v. United States*, 665 F.2d 500 (4th Cir. 1981).

Applied in *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

' 8-704.1. Disclosure of information.

Statute text

(a) Certain disclosures prohibited.- Except as provided in subsection (b) of this section, upon written request by the owner of a vessel registered under this subtitle that information about that person not be disclosed, the Department may not furnish to any person the name, address, or other identifying information about the owner of the registered vessel.

(b) Permissible disclosures.- This section does not prevent the Department from furnishing information under this section:

(1) To another governmental agency;

(2) If not requested for the purpose of preparing a mailing list, to a person requesting the information in connection with the compilation of statistical data; or

(3) As to the owners of vessels registered under this subtitle, to a person whose request for the information is determined by the Department to be limited to, and necessary for, the protection of the ownership, safe operation, proper maintenance, or repair of the vessel.

History

[1986, ch. 517.]

' 8-705. Waterways improvement districts - In general.

Statute text

(a) Authority of governing body to establish district.- A governing body may establish and designate areas of land or water within its jurisdiction as waterways improvement districts, subject to the provisions of subsection (c) of this section.

(b) District council.- A governing body:

(1) Shall act as the district council for the district; and

(2) May carry out the duties vested by law or which are reasonably necessary.

(c) Submission of proposed district to Department; report by Department on proposed district.- A governing body shall refer every proposed district to the section of waterways improvement of the Department for a report and evaluation of benefits to be achieved by creating the proposed district. The Department shall review the proposed district and submit a report to the governing body containing recommendations on feasibility and need for the proposed district. The report shall include the area within the district, the work or project to be carried out within the district pursuant to ' 8-707 of this subtitle, and the estimated cost for the work or project recommended.

History

[An. Code 1957, art. 14B, ' ' 12B, 12C; 1973, 1st Sp. Sess., ch. 4, ' 1; 1988, ch. 551; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, reenacted the section without change.

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, divided the provisions of (b) into introductory language, (b) (1) and (b) (2); and inserted "of this subtitle" in the last sentence of (c).

Cited in *Anne Arundel County v. City of Annapolis*, 352 Md. 117, 721 A.2d 217 (1998).

' 8-706. Same - Department's functions.

Statute text

The Department shall carry out the administrative duties concerning the waterways improvement districts. In addition, the Department shall:

(1) Review proposals and petitions to establish waterways improvement districts and report to the governing body on each proposed district as provided in ' 8-705 of this subtitle;

(2) Provide engineering design for waterways projects and supervise or provide supervision for these projects;

- (3) Clear debris, aquatic vegetation, and obstructions from waters of the State;
- (4) Provide liaison with the United States Army Corps of Engineers on projects under ' 107 of the Rivers and Harbors Act;
- (5) Prepare requests for appropriation of funds necessary to pay the State's share of the cost of projects;
- (6) Administer the **Waterway Improvement Fund** to provide interest-free loans to any governing body for a waterway improvement project as provided in ' 8-708 (d) of this subtitle; and
- (7) Administer the Waterway Improvement Fund to provide interest-free loans to a governing body for the benefit of a residential property owner, or group of residential property owners, with land abutting a channel adjacent to a main channel or harbor for dredging the adjacent channel as provided in ' 8-708.1 of this subtitle.

History

[An. Code 1957, art. 14B, ' 12E; 1973, 1st Sp. Sess., ch. 4, ' 1; 1978, ch. 983, ' 2; 1988, ch. 551; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, added paragraph (7).

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "addition, the Department shall" for "addition it shall" in the second sentence of the introductory language; added "of this subtitle" in (1); and substituted "projects and supervise or" for "projects, and supervise, or" in (2).

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, substituted "obstructions" for "obstruction" in (3).

Cited in *Anne Arundel County v. City of Annapolis*, 352 Md. 117, 721 A.2d 217 (1998).

' 8-707. Waterway Improvement Fund - Established; purposes; appropriations; reports.

Statute text

(a) Established; purpose.- There is a Waterway Improvement Fund for the purposes specified in this subtitle. Except as provided in ' 8-709 of this subtitle, any money received into the Waterway Improvement Fund shall be used solely for the following projects:

- (1) Marking channels and harbors and establishing aids to navigation in cooperation with and as an extension of operations of the United States Coast Guard;
- (2) Clearing debris, aquatic vegetation, and obstruction from waters of the State;
- (3) Dredging channels and harbors and construction of jetties and breakwaters in cooperation with and as an extension of operations of the United States Army Corps of Engineers;
- (4) Constructing and maintaining marine facilities beneficial to the boating public, including constructing pump-out stations for use by the general boating public at public and private marinas. The Secretary may use the funds to install pump-out stations for use by the general boating public and to supplement maintenance costs at the discretion of the Secretary. Before approving the construction of any pump-out station at a public or private marina, the Secretary shall consult with the Department of the Environment to assure that the wastewater collection

and treatment system of the marina is adequate to handle any increased flow. The Department may adopt regulations to govern the use and operation of pump-out stations for use by the general boating public constructed or supported by State funds under this section;

(5) Improvement, reconstruction, or removal of bridges, drawbridges, or similar structures over or across waters, if those structures delay, impede, or obstruct the boating public. With the approval of the Board of Public Works, funds from another public or any private source may be received and used to supplement and increase the funds in the Waterway Improvement Fund for the purpose of this subsection. Also, the Board of Public Works may enter into an agreement with a private company or person which owns such a structure, for the improvement, reconstruction, or removal of the structure, in order to provide a sharing of the cost of the improvement, reconstruction, or removal;

(6) Evaluation of water-oriented recreation needs and recreational capacities of Maryland waterways and development of comprehensive plans for waterway improvements;

(7) To provide matching grants to local governments for the construction of marine facilities for marine firefighting, marine police, or medical services and for the acquisition of vessels and equipment for vessels for marine firefighting, police, medical, and communication equipment for promoting safety of life and property and general service to the boating public utilizing the waters of the State. The ownership, operation, and maintenance of any equipment acquired under this subtitle shall be the responsibility of the local governing body;

(8) Structural and nonstructural shore erosion control under subsection (b) of this section;

(9) Acquisition of equipment and State vessels for firefighting, policing, first aid and medical assistance, and communications, in order to promote safety of life and property and general service to the boating public utilizing waters of the State;

(10) Boating information and education; and

(11) To provide interest-free loans to a governing body for the benefit of a residential property owner, or group of residential property owners, with land abutting a channel adjacent to a federal, State, county, or municipal main channel or harbor for dredging the adjacent channel.

(b) Limitations on appropriations.- Moneys from the Waterway Improvement Fund may be appropriated for structural and nonstructural shore erosion control projects under Subtitle 10 of this title, provided that the funds appropriated:

(1) In any fiscal year do not exceed 15% of the total excise tax revenues, exclusive of loan repayments, attained by the Waterway Improvement Fund in the preceding fiscal year; and

(2) May only be expended for projects that address shoreline areas where:

(i) Significant erosion is being caused by a combination of boat traffic and other factors, including:

1. An exposed point of land or shore in a narrow creek or cove;
2. Shore composition of easily erodible soils;
3. A steep, seaward, near-shore slope; or
4. A high rate of boating traffic passing close to the shore;

(ii) The shoreline has the following characteristics:

1. Evidence of erosion is clearly visible; and
2. Proximity to navigable waters where dredging responsibility is not clearly accepted by the federal government; or

(iii) Erosion has been significantly increased due to the construction or replacement of public

waterway improvement structures.

(c) Lump sum appropriations; report.-

(1) Funds specified under subsection (b) of this section may be appropriated in a lump sum for the general purpose of shore erosion control, without specifying individual projects pursuant to ' 8-709 (a) of this subtitle.

(2) By January 1 of each year, the Department shall issue a written report to the Senate Budget and Taxation Committee and the House Appropriations Committee that shall contain for each grant or loan made under subsection (b) of this section:

(i) The amount of each grant or loan;

(ii) The name and address of each recipient;

(iii) The location of the property for which the grant or loan was made; and

(iv) If the recipient is a corporation, the name of each officer of the corporation.

History

[An. Code 1957, art. 14B, ' 12F; 1973, 1st Sp. Sess., ch. 4, ' 1; 1977, ch. 624; ch. 784, ' 5; 1981, ch. 595; 1982, ch. 17, ' 7; 1983, ch. 8; 1984, ch. 255; 1988, chs. 307, 461, 551; 1989, ch. 690; 1990, ch. 6, ' 2; ch. 263; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. Chapter 307, Acts 1988, effective July 1, 1988, in present subsection (a) (4), added the language beginning "including constructing" at the end of the first sentence, and added the second through fourth sentences.

Chapter 461, Acts 1988, designated the provisions of the section as subsection (a); inserted "and maintaining" near the beginning of subsection (a) (4); and added subsections (a) (8) through (a) (10), (b), and (c).

Chapter 551, Acts 1988, effective July 1, 1988, added the subsection designated herein as subsection (a) (11).

The 1989 amendment, effective July 1, 1989, reenacted (a) (4) without change.

Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of passage, inserted "of this subtitle" in the second sentence of the introductory language of (a); substituted "harbors and" for "harbors, and" in (a) (1); substituted "waterways and" for "waterways, and" in (a) (6); substituted "police, or medical services and" for "police or medical services, and" and "vessels and" for "vessels, and" in the first sentence of (a) (7); substituted "communications in" for "communications, in" in (a) (9); and substituted "do" for "may" and "%" for "percent" in (b) (1). Chapter 263, Acts 1990, effective July 1, 1990, inserted "federal, State, county, or municipal", and deleted "whose property has been included in a waterway improvement district by the governing body," following "harbor" in (a) (11).

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, inserted a comma following "communications" in (a) (9).

Editor's note. Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

Section 2, ch. 470, Acts 1991, provides that "notwithstanding any other provision of law, on or before June 30, 1991, the Governor shall transfer to the General Fund:

(1) \$17,000,000 of the funds in the account of the Maryland Agricultural Land Preservation Fund

- established under ' 2-505 of the Agriculture Article;
- (2) \$2,300,000 of the funds in the Water Pollution Control Fund established under ' 9-345 of the Environment Article for the purpose described in ' 9-345 (b) (3) of the Environment Article for agriculture cost share;
- (3) \$7,600,000 of the funds in the account of the Bond Insurance Fund established under ' 13-120 of the Financial Institutions Article [see now ' 5-914 of Art. 83A];
- (4) \$1,500,000 of the funds in the account of the Small Business Development Guaranty Fund established under ' 13-221.1 of the Financial Institutions Article [see now ' 5-1017 of Art. 83A];
- (5) \$1,000,000 of the funds in the account of the Environmental Trust Fund established under ' 3-302 of the Natural Resources Article;
- (6) \$28,000,000 of the funds in the accounts for State Projects and \$5,000,000 from the accounts for Local Projects under Title 5, Subtitle 9 (Program Open Space) of the Natural Resources Article;
- (7) \$1,900,000 of the funds in the account of the Ocean Beach Replenishment Fund established under ' 8-1103 of the Natural Resources Article;
- (8) \$1,079,000 of the funds in the Dedicated Purpose Account of the State Reserve Fund established under ' 7-310 of the State Finance and Procurement Article, which constitute revenue generated from the Tax Amnesty Program under Chapter 126 of the Acts of 1987;
- (9) \$2,700,000 of the funds in the account of the Economic Development Opportunities Program Fund established under ' 7-314 of the State Finance and Procurement Article;
- (10) \$5,500,000 of the funds in the account for unclaimed lottery prizes under ' 9-122 (e) of the State Government Article;
- (11) \$13,000,000 of the funds in the account of the Law Enforcement and Correctional Training Fund established under Article 41, ' 4-1301;
- (12) \$2,000,000 of the funds in the account of the Maryland Food Center Authority established under Title 13 of Article 41, provided that the amount transferred will reduce the outstanding balance of the loan to the Maryland Food Center Authority made pursuant to Chapter 409 of the Acts of 1969 (the General Construction Loan of 1969);
- (13) All funds remaining in the account of the Enterprise Zone Venture Capital Guarantee Fund established under Article 83A, ' 5-305 [see now ' 5-405 of Art. 83A];
- (14) \$10,000,000 of the funds in the accounts of the Waterway Improvement Fund established under ' 8-707 of the Natural Resources Article; and
- (15) \$2,500,000 of the funds in the Rental Housing Programs Fund established under ' 2-805 of Article 83B."

Section 4 of ch. 470 provides that "for fiscal year 1992, notwithstanding any other provision of law, the Governor shall transfer to the General Fund:

- (1) \$7,500,000 of the funds in the account for unclaimed lottery prizes under ' 9-122 (e) of the State Government Article;
- (2) \$5,500,000 of the funds in the account of the Maryland Stadium Facilities Fund established under ' 7-312 of the Financial Institutions Article [State Finance and Procurement Article];
- (3) \$12,000,000 of the funds in the accounts for State Projects and \$4,500,000 in the accounts for Local Projects under Title 5, Subtitle 9 (Program Open Space) of the Natural Resources Article;
- (4) \$6,000,000 of the funds in the account of the Waterway Improvement Fund established under

' 8-707 of the Natural Resources Article;

(5) \$105,000 of the funds in the account of the Maryland Economic Development Corporation established under Title 5 of Article 83A;

(6) \$500,000 of the funds in the account of the Small Business Development Guaranty Fund established under ' 13-221.1 of the Financial Institutions Article [see now ' 5-1017 of Art. 83A];

(7) \$500,000 of the funds in the account of the Economic Development Opportunities Program Fund established under ' 7-314 of the State Finance and Procurement Article; and

(8) \$600,000 of the funds in the Rental Housing Programs Fund established under ' 2-805 of Article 83B."

Section 2, ch. 1, Acts 1991, 1st Sp. Sess., provides that "notwithstanding any other provision of law and in addition to any amounts transferred under Chapter 470 of the Acts of the Regular Session of the General Assembly of 1991, for fiscal year 1991, the Governor shall transfer to the General Fund the following amounts from the accounts indicated except as provided under ' 3 of this Act:

(1) \$1,000,000 of the funds in the account of the Economic Development Opportunities Program Fund established under ' 7-314 of the State Finance and Procurement Article;

(2) \$500,000 of the funds in the Dedicated Purpose Account of the State Reserve Fund established under ' 7-310 of the State Finance and Procurement Article for capital projects at the Eastern Correctional Institution;

(3) \$30,950,000 of the funds in the accounts for local projects under Title 5, Subtitle 9 (Program Open Space) of the Natural Resources Article;

(4) \$3,000,000 of the funds in the account of the Waterway Improvement Fund established under ' 8-707 of the Natural Resources Article;

(5) \$550,000 of the funds in the account of the Ocean Beach Replenishment Fund established under ' 8-1103 of the Natural Resources Article;

(6) \$300,000 of the funds in the account of the Woodlands Incentives Fund established under ' 5-307 of the Natural Resources Article;

(7) \$200,000 of the funds in the account of the Wetlands Compensation Fund established under ' 9-204 of the Natural Resources Article [see now ' 16-205 of the Environment Article];

(8) \$200,000 of the funds in the account of the Environmental Trust Fund established under ' 3-302 of the Natural Resources Article;

(9) \$200,000 of the funds in the account in the Surface Mined Land Reclamation Fund established under ' 7-6A-04 of the Natural Resources Article [see now ' 15-805 of the Environment Article];

(10) \$720,000 of the funds in the account of the Maryland Food Center Authority established under Title 13 of Article 41 of the Code, provided that the amount transferred will reduce the outstanding balance of the loan to the Maryland Food Center Authority made pursuant to Chapter 409 of the Acts of 1969 (the General Construction Loan of 1969);

(11) \$3,000,000 of the funds in the accounts of the University of Maryland System [now University System of Maryland];

(12) \$165,000 of the funds in the accounts of Morgan State University;

(13) \$55,000 of the funds in the accounts of St. Mary's College of Maryland;

(14) \$85,000 of the funds in the accounts of the New Community College of Baltimore [now

Baltimore City Community College] established under ' 16-603 of the Education Article;
(15) \$3,978,000 of the funds in the account of the Rental Housing Programs Fund established under ' 2-805 of Article 83B of the Code;
(16) \$740,000 of the funds in the account of the Homeownership Programs Fund established under ' 2-613 of Article 83B of the Code;
(17) \$856,000 of the funds in the account of the Special Loan Programs Fund established under ' 2-708 of the Article 83B of the Code;
(18) \$320,000 of the funds in the account of the MHT Loan Fund established under ' 5-612 of Article 83B of the Code; and
(19) \$5,000,000 of the funds in the accounts of the State Insurance Trust Fund established under ' 9-103 of the State Finance and Procurement Article, including \$2,500,000 in general funds originally appropriated in State budgets for fiscal year 1988 and prior years to pay claims under Title 12, Subtitles 1 and 4 of the State Government Article."

Section 3 of ch. 1 provides that "in the event the Governor, in consultation with the Comptroller and the State Treasurer, shall determine that less than the total amount of funds transferred under ' 1 and ' 2 of this Act is required to attain a General Fund ending balance in FY 1991 of \$200,000, the amount of funds transferred from the following accounts shall be reduced in the priority indicated:

First, the amount of funds transferred from the accounts for local projects under Program Open Space shall be reduced by up to \$11,893,044 in order to preserve funds for previously authorized projects ready for final Board of Public Works approval; and

Second, the amount of funds transferred from the Rental Housing Programs Fund shall be reduced by up to \$3,000,000.

To the extent that the amount of funds transferred under ' 1 and ' 2 of this Act exceeds the amount determined necessary to attain a General Fund ending balance of \$200,000 for FY 1991 by more than \$14,893,044, the amounts transferred under ' 1 and ' 2 of this Act may be reduced by the Governor after consultation with the budget committees of the General Assembly."

Section 1, ch. 269, Acts 1992, provides that "notwithstanding any other provision of law, for Fiscal Year 1993 only, the Governor shall transfer to the General Fund:

(a) \$4,100,000 of the funds in the account of the Law Enforcement and Correctional Training Fund established under Article 41, ' 4-1301 of the Code;

(b) \$1,000,000 of the funds in the account of the Environmental Trust Fund established under ' 3-302 of the Natural Resources Article; and

(c) \$500,000 of the funds in the account of the Waterway Improvement Fund established under ' 8-707 of the Natural Resources Article."

Bill review letter. Chapter 269, Acts 1992 (Senate Bill 644), was approved for constitutionality and legal sufficiency, as it was determined that, although a legislative veto provision could not be given effect, the unconstitutional legislative veto provisions could be treated as severable, and the remaining provisions of the bill given effect. (Letter of Attorney General dated May 8, 1992). Stated in *Anne Arundel County v. City of Annapolis*, 352 Md. 117, 721 A.2d 217 (1998).

' 8-708. Same - Financing projects.

Statute text

(a) Financing by Fund solely.- Except as provided in ' 8-708.1 of this subtitle, projects for dredging and marking channels and harbors, construction of jetties and breakwaters, and clearing debris, aquatic vegetation, and obstructions in navigable waters, as well as construction of marine facilities located within lands owned by the Department and construction of pump-out stations for use by the general boating public at public and private marinas, shall be financed solely by the Waterway Improvement Fund. Any funds available from the federal government, any governing body, or any gift also may be used for these purposes.

(b) Joint financing by Fund and governing body.- Except for the construction of pump-out stations for use by the general boating public at public and private marinas, the governing body and the Waterway Improvement Fund jointly shall finance projects to construct marine facilities beneficial to the boating public. The contribution of the Waterway Improvement Fund shall be limited to not more than 50% of the cost of each project. However, the Waterway Improvement Fund may finance completely any construction project beneficial to the boating public which costs less than \$100,000 regardless of its location.

(c) Governing body's share.-

(1) The governing body shall pay its share of matching projects under subsection (b) of this section or shall repay the Waterway Improvement Fund for any loan authorized under subsection (d) of this section either by:

(i) Means of appropriations from general funds; or

(ii) Levying a special assessment or tax against each property owner whose property lies within the district.

(2) The governing body may accept and use any gift for the cost of any project as part of the governing body's share of any matching fund project.

(d) Borrowing by governing body.- In addition to the methods of financing provided in subsections (a) and (b) of this section, a governing body may borrow interest-free funds from the Waterway Improvement Fund for a waterway improvement project within a waterway improvement district. However, the amount borrowed from the Waterway Improvement Fund for these districts may not exceed 21% of the total attained revenue of the Waterway Improvement Fund from the previous fiscal year. A single project may not exceed 7% of the total attainment. The governing body shall repay the funds at a uniform rate over a period not to exceed 25 years as provided by agreement between the State and the governing body.

(e) Limitation on Fund's contribution.- The contribution of the Waterway Improvement Fund shall be limited to not more than 50% of the cost of each acquisition, and the total amount of funds expended in any fiscal year for acquisitions and projects specified in ' 8-707 (7) and (9) of this subtitle may not exceed the amount of the motor fuel tax revenue paid to the Waterway Improvement Fund in the preceding fiscal year, as provided for in ' 2-1004 of the Tax-General Article.

(f) Amortization and payment of interest on bonds.- Notwithstanding any other provision of this subtitle, funds deposited in the Waterway Improvement Fund may be used for amortization and payment of interest on bonds issued for financing projects authorized under this subtitle.

History

[An. Code 1957, art. 14B, ' 12G; 1973, 1st Sp. Sess., ch. 4, ' 1; 1977, ch. 624; 1978, ch. 983, ' ' 1, 2; 1979, ch. 302; 1980, ch. 567; 1981, ch. 595; 1983, ch. 8; 1988, ch. 110, ' 1; chs. 307,

461, 551; 1989, ch. 690; 1990, ch. 6, ' 2; 1995, ch. 430.]

Annotations

Effect of amendments. Chapter 110, Acts 1988, effective Jan. 1, 1989, substituted "motor fuel tax revenue" for "motor vehicle fuel tax" and "' 2-1004 of the Tax-General Article" for "Article 56, ' 137" in subsection (e).

Chapter 307, Acts 1988, effective July 1, 1988, inserted a comma following "navigable waters" near the beginning and "and construction of pump-out stations for use by the general boating public at public and private marinas" near the end of the first sentence of subsection (a); and added the exception at the beginning of subsection (b).

Chapter 461, Acts 1988, substituted "' 8-707 (7) and (9)" for "' 8-707 (7)" in subsection (e).

Chapter 551, Acts 1988, effective July 1, 1988, added the exception at the beginning of subsection (a).

The 1989 amendment, effective July 1, 1989, reenacted (a) and (b) without change.

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "Department" for "State Department of Natural Resources" and "marinas, and" for "marinas and" in the first sentence of (a); inserted "the" preceding "general" in the first sentence, and substituted "%" for "percent" in the second sentence of (b); inserted "of this section" twice and deleted a comma preceding "or shall repay" in (c) (1); substituted "the governing body's" for "its" in (c) (2); substituted "may not" for "shall not" and "%" for "percent" in the second sentence, and rewrote the third sentence, of (d); and substituted "%" for "percent" and "may not" for "shall not" in (e).

The 1995 amendment, effective Oct. 1, 1995, substituted "\$50,000" for "\$25,000" in the last sentence of (b).

Editor's note. Section 7, ch. 110, Acts 1988, provides that "this act shall take effect Jan. 1, 1989, contingent on the taking effect of Chapter ____ of the Acts of the General Assembly of 1988 (S.B. 1), and if Chapter ____ does not become effective, this act shall be null and void without the necessity of further action by the General Assembly." Senate Bill 1 was enacted as ch. 2, Acts 1988.

Stated in *Anne Arundel County v. City of Annapolis*, 352 Md. 117, 721 A.2d 217 (1998).

' 8-708.1. Financing for projects for dredging channels adjacent to main channels or harbors.

Statute text

(a) Interest-free loans.- Projects for dredging channels adjacent to federal, State, county or municipal main channels or harbors may be financed by interest-free loans to a governing body for the benefit of a residential property owner or a group of residential property owners with land abutting the adjacent channel.

(b) Agreement of residential property owners.-

(1) Except as provided in paragraph (2) of this subsection, unless every residential property owner with land abutting the adjacent channel agrees to participate in the financing of the dredging project, the dredging project may not be approved.

(2) If all residential property owners abutting a channel adjacent to a main channel or harbor

agree to exempt a residential property owner or group of residential property owners from participating in the financing of the dredging project, the residential property owner or group of residential property owners shall be exempt.

(c) Payments on principal.- Repayments of the principal on loans made under this section shall be made by the governing body in accordance with ' 8-708 (c) of this subtitle.

History

[1988, ch. 551; 1990, ch. 6, ' 2; ch. 263.]

Annotations

Effect of amendments. Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of passage, redesignated former (a) (1), (a) (2) (i), (a) (2) (ii), and (b) as present (a), (b) (1), (b) (2), and (c), respectively; substituted "owner or" for "owner, or," "owners with" for "owners, with," and "channel whose" for "channel, whose" in (a); substituted "paragraph (2)" for "paragraph (ii)" in (b) (1); and substituted "owner or" for "owner, or" twice, "owners from" for "owners, from," and "owners shall" for "owners, shall" in (b) (2).

Chapter 263, Acts 1990, effective July 1, 1990, inserted "federal, State, county or municipal", and deleted "whose property has been included in a waterway improvement district by the governing body" following "channel" in (a).

Editor's note. Section 2, ch. 551, Acts 1988, provides that the act shall take effect July 1, 1988. Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

' 8-709. Waterway Improvement Fund - List of requests for use to be included in Department's annual budget request; expenditures from Fund without legislative approval.

Statute text

(a) The Department shall include in its annual budget request an itemized list of requests for the use of any available money from the Waterway Improvement Fund for the projects under ' 8-707 of this subtitle. The Department's list shall include a brief description of each project, an estimate of its cost, and the benefits to be derived from it. The list shall designate which projects are financed solely by the Waterway Improvement Fund, which are matching fund projects, and which are interest-free loan projects.

(b) Notwithstanding the provisions of subsection (a) of this section, in any fiscal year the Department may expend from the Waterway Improvement Fund without legislative approval a total sum of not more than \$225,000. Of this amount, a sum of not more than \$125,000 may be expended for small projects under ' 8-707 (3) and (4) of this subtitle, subject to the limitation that a single project of this kind may not exceed \$5,000 in cost to the Waterway Improvement Fund, and a sum of not more than \$100,000 may be expended for boating safety and education.

(c) Notwithstanding the provisions of subsection (a) of this section, the Department may propose in its annual budget, beginning with the fiscal year 1994 budget, an appropriation of not more than \$1,000,000 from the Waterway Improvement Fund to support marine operations in the Natural Resources Police.

History

[An. Code 1957, art. 14B, ' 12H; 1973, 1st Sp. Sess., ch. 4, ' 1; 1974, ch. 431; 1983, ch. 8; 1988, ch. 551; 1990, ch. 6, ' 2; 1992, ch. 416.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, substituted a comma for the "and" preceding, and added "and which are interest-free loan projects" following, "which are matching fund projects" at the end of subsection (a).

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, inserted "of this subtitle" in the first sentence, and substituted "projects, and" for "projects and" in the last sentence, of (a); and in (b), inserted "of this subtitle" and substituted "a single project of this kind may not" for "no one single project of this kind may" in the last sentence.

The 1992 amendment reenacted (a) without change; and added (c).

' 8-709.1. Limitation of marina slips.

Statute text

(a) Applicability.- This section applies to any public or private marina that is located on the navigable waters of the State.

(b) In general.- Except as provided under ' 9-333 of the Environment Article, on or after July 1, 1989 a person may not construct:

(1) Any additional slips at an existing marina that would result in a total slip capacity of more than 10 slips; or

(2) A new marina with more than 10 slips on the navigable waters of the State.

History

[1989, ch. 690; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, divided the provisions of (b) into introductory language, (b) (1) and (b) (2); substituted "1989 a" for "1989, a" in the introductory language of (b); and deleted "construct" at the beginning of (b) (2).

Editor's note. Section 2, ch. 690, Acts 1989, provides that the act shall take effect July 1, 1989.

' 8-710. Manufacturer's or dealer's license.

Statute text

(a) Required.- A manufacturer or dealer may not conduct his business in the State unless licensed as a manufacturer or dealer pursuant to regulations the Department adopts.

(b) Exemption for boat show or exposition.- An out-of-state or foreign manufacturer or dealer shall be exempted from licensing solely for purposes of displaying and selling vessels at a boat

show, boat exposition, or outdoor recreation show if:

(1) The show or exposition is 14 consecutive days or less duration, admission taxes are paid on charges for admission to the show or exposition, and the manufacturer or dealer does not principally own, control, or manage the show or exposition;

(2) Prior to each show or exposition, the manufacturer or dealer shall have registered for the show or exposition with the Department on forms supplied by the Department and shall have paid the Department an annual registration fee of \$25; and

(3) Within 30 days after each show or exposition, the dealer or manufacturer shall report to the Department on forms provided by the Department all sales of vessels made at the show or exposition.

(c) Application; fee; registration for boat show or exposition.-

(1) Application for a manufacturer's or dealer's license is made on the form the Department prescribes and contains the name and address of the applicant. If the applicant is a partnership, the application shall include the name and address of each partner. If the applicant is a corporation, the application shall contain the names of the principal officers of the corporation, the state of incorporation, the addresses of every place where the business is conducted, the nature of the business, and any other information the Department requires. Every application shall be verified by oath or affirmation of the applicant if an individual, or by the partner or officer if the applicant is a partnership or corporation. A license fee fixed by the Department not to exceed \$25 shall accompany every application.

(2) Registration for purposes of displaying and selling vessels at a boat show, boat exposition, or outdoor recreation show shall be made on forms the Department prescribes and may require the same information and verification as for application for a manufacturer's or dealer's license.

(3) The registration fee shall be deposited in the Boat Dealer Assurance Fund provided for in ' 8-710.2 of this subtitle up to the Fund's authorized maximum amount. Amounts received in excess of the Fund's authorized maximum amount shall be deposited and used in accordance with ' 8-723 of this subtitle.

(d) Issuance; expiration and renewal.- After receiving the required application and fee, the Department issues a license certificate to the applicant which entitles him to conduct business as a manufacturer or dealer during the calendar year in which the license is issued. Every license expires on December 31 of each year in which issued. The license may be renewed upon annual application and payment of the required fee.

(e) Refusal; cancellation; revocation; suspension.-

(1) The Department may refuse to issue a license or, after written notice to the licensee and a hearing, may cancel a license when the Department determines that the applicant or licensee has failed to comply with the provisions of this subtitle.

(2) On petition of the Consumer Protection Division of the Office of the Attorney General, and after written notice to a licensee and a hearing, the Department may revoke or suspend the license of a dealer if the Department determines that the licensee has violated ' 13-301 or ' 13-303 of the Commercial Law Article.

(f) Furnishing changes in information.- If, during the period for which a dealer's or manufacturer's license is issued, there is any change in the factual information furnished to the Department by the licensee in connection with obtaining or retaining the license or a renewal of the license, the change shall be truly, fully, and promptly communicated to the Department in

writing on forms provided by the Department. The applicant shall sign the form and certify that the information given is true and correct.

History

[An. Code 1957, art. 14B, ' 4-O; 1973, 1st Sp. Sess., ch. 4, ' 1; 1975, ch. 184; 1980, ch. 723; 1989, ch. 29; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1989 amendment, effective July 1, 1989, inserted (b) and redesignated the following subsections accordingly; deleted "of " following "manufacturer" in (a); and added (c) (2) and (c) (3).

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, deleted "rules and" preceding "regulations" in (a); substituted "by the Department" for "by it" in (b) (3); substituted "applicant if " for "applicant, if " in the fourth sentence of (c) (1); substituted "when the Department" for "when it" in (e) (1); substituted "' 13-301 or ' 13-303" for "' ' 13-301 or 13-303" in (e) (2); and substituted "license or a renewal of the license" for "license, or a renewal of it" in the first sentence of (f).

' 8-710.1. Bonds of manufacturers or dealers.

Statute text

(a) Prior to the issuance of a boat dealer's or manufacturer's license, each applicant shall file with the Department acceptable evidence of a bond or other security deemed sufficient and adequate by the Department for the payment of fees and taxes the applicant receives based upon the applicant's volume of sales and the class of boat dealer's or manufacturer's license which the applicant has requested. The bond shall be for the use and benefit of the Department and any member of the public who suffers or sustains any loss by reason of any violation of this subtitle by the licensee, the licensee's agent, or the licensee's employee.

(b) If any licensee fails to file acceptable evidence that the bond required by this section has been extended prior to the expiration of the bond, the licensee's dealer's or manufacturer's license automatically is suspended upon expiration of the bond. The suspension shall terminate when the licensee files with the Department acceptable evidence of a bond or other security deemed sufficient and adequate by the Department for the payment of fees and taxes the licensee receives based upon the licensee's volume of sales and the class of boat dealer's and manufacturer's license which the licensee has been issued.

(c) An applicant for a boat dealer's or manufacturer's license who also is applying for a title service agent's license or a trailer dealer's license with the Motor Vehicle Administration may file evidence of a bond or other security deemed adequate and sufficient by both the Motor Vehicle Administration and the Department with respect to the applicant's obligations and liabilities under this section and ' 15-308 or ' 15-604 of the Transportation Article.

History

[1975, ch. 184; 1976, ch. 852; 1977, ch. 765, ' 24; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "the applicant receives" for "he receives" and "the applicant's" for "his" in the first sentence, and substituted "the licensee's agent, or the licensee's employee" for

"his agent, or employee" in the second sentence; in (b), substituted "the licensee's" for "his" in the first sentence, and substituted "the licensee receives" for "he receives," "the licensee's volume" for "his volume" and "the licensee has" for "he has" in the last sentence; and in (c), substituted "who also is applying" for "who is also applying" and deleted "as the case may be" following "15-604."

' 8-710.2. Temporary certificates of boat number.

Statute text

(a) **Furnished to dealers.**- The Department may design temporary certificates of boat number and furnish them to any licensed boat dealer who:

- (1) Applies for at least 25 of the certificates on a form that the Administration requires; and
- (2) Submits a fee of \$1 for each certificate with the application.

(b) **Issuance to purchaser of vessel.**-

(1) For any vessel that is to be used principally in Maryland, a licensed dealer may issue 1 temporary certificate of boat number to the person who buys the vessel from the dealer.

(2) A dealer may not issue a temporary certificate of boat number unless:

- (i) The taxes and other fees as required by this subtitle are paid to the dealer; and
- (ii) An application for Maryland certificate of boat title and number or a purchaser's application for transfer of a Maryland certificate of boat title is completed and signed by the purchaser of the vessel.

(3) (i) Before issuing a temporary certificate of boat number, the dealer shall complete the certificate by writing in the information required by the Department.

(ii) A temporary certificate of boat number is not valid unless the dealer completes the certificate as required by this subsection.

(4) The dealer may not issue more than 1 temporary certificate for any vessel. If the temporary certificate is lost, stolen, or destroyed, the owner must apply to the Department for a certificate of boat number.

(5) Within 3 days after a dealer issues a temporary certificate of boat number, the dealer shall mail a copy of the temporary certificate to the Department.

(c) **Expiration of certificate.**- A temporary certificate of boat number expires when the first of either of the following occurs:

- (1) A certificate of boat number for the vessel is issued by the Department; or
- (2) 60 days expires from the date the temporary certificate was issued by the dealer.

(d) **Boat Dealer Assurance Fund.**-

(1) There is a special fund called the Boat Dealer Assurance Fund. All fees collected by the Department under this section shall be credited to the Fund.

(2) The Fund shall be used exclusively as provided in this subsection to pay title taxes and fees that boat dealers and manufacturers have failed to forward to the Department.

(3) A payment may be made under this section only if:

- (i) A member of the public demonstrates that title taxes and application fees were paid to a dealer and a manufacturer; and
- (ii) The dealer or manufacturer has failed to forward the taxes and fees to the Department as

required by this subtitle.

(4) Attainments to the Fund in excess of an accumulated balance of \$100,000 may be expended by the Department for any purpose authorized under ' 8-723 of this subtitle. However, any funds not expended pursuant to this subsection or ' 8-723 of this subtitle:

(i) Shall remain in the Fund; and

(ii) May not revert to the General Fund.

(e) Failure of dealer to forward taxes and fees to Department.- In addition to any other sanction under this subtitle, on failure of a dealer to forward to the Department taxes and fees within 30 days of collection, the Department may declare forfeited the bond or other security filed by the dealer under this subtitle. The Department shall use funds collected through the forfeiture to reimburse the Boat Dealer Assurance Fund for the expense of paying title taxes and fees in accordance with this section.

(f) Return of certificates by noncomplying dealer.- The Department may require the return of all temporary certificates from any dealer who has not complied with any provision of this subtitle.

History

[1981, ch. 716; 1989, ch. 29; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1989 amendment, effective July 1, 1989, in (d) (1), deleted "until the Fund accumulates \$25,000" at the end; in (d) (2), inserted "and manufacturers"; in (d) (3) (i), inserted "and a manufacturer" and in (d) (3) (ii), inserted "or manufacturer"; added (d) (4); deleted (f); and redesignated the following subsection accordingly.

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "1" for "one" in (b) (1) and (b) (4); divided the provisions of (b) (2) into introductory language, (b) (2) (i) and (b) (2) (ii); and divided (d) (4) into introductory language, (d) (4) (i) and (d) (4) (ii).

' 8-710.3. Excise tax on sales of vessels.

Statute text

(a) Collection of tax.- A licensed boat dealer shall collect the excise tax on all sales of vessels to be titled and numbered and on all sales of vessels to be federally documented to be used in the State as required under ' ' 8-712 and 8-716 of this subtitle.

(b) Compliance with numbering requirements.- A licensed boat dealer who operates a bare-boat charter shall insure that any owner of a vessel in the fleet of the dealer to be used in the State has:

(1) Complied with ' ' 8-712 and 8-716 of this subtitle; and

(2) Numbered the vessel to be chartered in the State as the state of principal use.

History

[1986, ch. 828, ' 1; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "the State" for "this State" and added "of this subtitle"; divided the provisions of (b) into introductory language, (b) (1) and (b) (2); substituted "the State" for "this State" in the introductory language of (b) and in (b) (2); inserted "of this subtitle" in (b) (1); and deleted "has" at the beginning of (b) (2).

' 8-711. Hull identification number of vessel.

Statute text

(a) Required for certain vessels; procedures for issuance.- Every vessel whose construction is begun after October 31, 1972 shall have a hull identification number assigned and affixed as required by the Federal Boat Safety Act of 1971. The Department shall determine the procedures for application and for issuance of the hull identification number.

(b) Destruction, removal, alteration of manufacturer's hull identification number prohibited.- A person may not destroy, remove, alter, cover, or deface the manufacturer's hull identification number, the plate bearing it, or any hull identification number the Department assigns to any vessel without the Department's permission.

History

[An. Code 1957, art. 14B, ' 4N; 1973, 1st Sp. Sess., ch. 4, ' 1.]

' 8-712. Numbering vessels; owner's certificate of number.

Statute text

(a) Numbering required; exceptions.-

(1) Any vessel equipped with propulsion machinery of any type on the waters of the State shall be numbered for identification in accordance with this subtitle and any regulation pursuant to it. This provision does not apply to the following vessels:

(i) A vessel which has a valid document issued by the United States Coast Guard or its successor;

(ii) A vessel with a valid number awarded pursuant to federal law or a federally approved numbering system of another state, if the number awarded is displayed in accordance with the requirements of that system, and the certificate of number is available for inspection whenever the vessel is in use;

(iii) A vessel from a country other than the United States temporarily using the waters of the State for less than 90 days;

(iv) A vessel used for public service and owned by the United States government, another state, or any political subdivision;

(v) A ship's lifeboat;

(vi) A vessel propelled only by sail;

(vii) A vessel numbered according to the Federal Boat Safety Act of 1971; or

(viii) A vessel manually propelled.

(2) The Department, by regulation, for the period the Department prescribes may exempt any vessel or class of vessels from the numbering provisions of this subtitle, if the vessel or class of vessels is exempted from the federal numbering requirements by statute, or rule or regulation.

(b) Owner's certificate of number - Application.- The owner of any vessel to be numbered by this subtitle shall file an application for a certificate of number with the Department. The application is on forms the Department approves, accompanied by the requisite fee, and signed by every vessel owner.

(c) Same - Fees; duration; transfer of ownership; exception.-

(1) Certificates of number issued under this section shall be valid for a period not to exceed 2 years. The owner of the vessel may apply every other year for renewal of the certificate. The renewed certificate shall expire on December 31 of the calendar year following the year the certificate is issued. The fee for a 2-year certificate for vessels is \$24. Vessels 16 feet in length or less and equipped with a 7 1/2 horsepower motor or less are exempt from this fee. The fee to replace a lost, destroyed, or corrected certificate is \$2. The Department shall record any transaction or transfer of numbered boats. The Department may record any amount of money owing on a vessel required to be numbered at the time of sale. The Department may not effect a transfer of ownership until the amount of money owed as shown on the records of the Department is fully paid or recorded on the new title. Any vessel that is required to be numbered under this section that is exempt prior to January 1, 1974 shall be exempt from payment of this title tax.

(2) Emergency rescue boats that belong to fire departments or rescue squads in Maryland:

(i) Shall be exempt from all registration fees; but

(ii) Shall apply for a registration renewal every 3 years.

(d) Same - Issuance; form and contents; inspection; display of number on vessel.- Upon receipt of the application in approved form, the Department shall issue to the applicant a certificate of boat number which shall contain the boat number issued to the vessel and additional information the Department prescribes by regulation. The certificate of boat number shall be available for inspection when the vessel is in use. The owner shall paint on or attach the boat number to each side of the forward half of the vessel's hull or superstructure for which the boat number is issued, displaying the boat number in the manner required by Department regulations and maintaining the boat number in legible condition.

(e) Same - Expiration of certificate of vessel sold, transferred, abandoned.- If a vessel required to be numbered under this subtitle is sold, transferred, abandoned, lost, stolen, or destroyed, the vessel's certificate expires at the time of the sale, transfer, abandonment, loss, theft, or destruction and then is invalid.

(f) Same - Service charge for unpaid checks.- There is a \$5 service charge for every check returned unpaid.

(g) Information as to obtaining U.S. Coast Guard rules and regulations.- The Department shall inform each holder of a certificate of boat number of the manner in which the boat owner may obtain a current copy of the U.S. Coast Guard rules and regulations applicable to the type of boat registered under the owner's boat number.

(h) Outstanding warrants.- If a person who applies for the issuance or renewal of a certificate of boat number for a vessel has an outstanding warrant for failing to appear in court to answer a charging document alleging a violation under this subtitle, the Department shall refuse to issue or renew the certificate of boat number for the vessel until the person charged has complied with the provisions of ' 1-205 of this article.

History

[An. Code 1957, art. 14B, ' ' 5, 6; 1973, 1st Sp. Sess., ch. 4, ' 1; 1975, ch. 471; 1979, ch. 695; 1980, ch. 339; 1983, chs. 8, 124; 1984, ch. 589; 1990, ch. 6, ' 2; ch. 305; 1994, ch. 434.]

Annotations

Effect of amendments. Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of

passage, redesignated the former introductory language of (a) as (a) (1), former (a) (1) through (a) (8) as (a) (1) (i) through (a) (1) (viii), and the former last, undesignated paragraph of (a) as (a) (2); substituted "subtitle and any regulation" for "subtitle, and any rule or regulation" in the introductory language of (a) (1); substituted "federally approved" for "federally-approved" in (a) (1) (ii); substituted "by regulation, for the period the Department prescribes" for "by rule or regulation, for the period it prescribes" and "subtitle, if " for "subtitle if " in (a) (2); in (c) (1), substituted "length or less equipped with a 71/2 horsepower motor or less is" for "length, or less, equipped with a 71/2 horsepower motor, or less, is" in the second sentence, substituted "the Department" for "it" in the fifth sentence, and substituted "1974 shall" for "1974, shall" in the last sentence; divided the provisions of (c) (2) into introductory language, (c) (2) (i) and (c) (2) (ii); in (d), deleted "rule or" preceding "regulation" in the first sentence, and, in the last sentence, substituted "the boat number" for "it" the last three places that phrase appears and substituted "by Department regulations" for "by the Department rules or regulations"; in (e), substituted "the vessel's" for "its"; and in (g), substituted "the owner's" for "his."

Chapter 305, Acts 1990, effective July 1, 1990, added (h).

The 1994 amendment, effective Jan. 1, 1995, in (c) (1), deleted the former first sentence and added the present first four sentences; deletes "be pocket size and shall" following "boat number shall" in (d); and deleted "Each year" from the beginning of (g).

Editor's note. Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

Section 2, ch. 434, Acts 1994, provides that "notwithstanding the provisions of ' 1 of this Act, for the purposes of implementing a staggered system of renewal for certificates of number and documented vessel stickers, the Maryland Department of Natural Resources may require that up to one-half of the certificates of number and documented vessel stickers that are to be renewed following January 1, 1995 shall be renewed for 1 year. Any certificate or sticker renewed for 1 year under the provisions of this section shall be renewed in accordance with ' 1 of this Act for all subsequent renewals."

' 8-712.1. Vessel validation sticker.

Statute text

(a) Biennial validation required.-

(1) An owner of a vessel that has a valid document issued by the United States Coast Guard and that is used principally on the waters of the State for pleasure shall apply to the Department for a Maryland use sticker.

(2) The Department shall issue a Maryland use sticker to any person who submits an application and pays a fee as required by subsection (b) of this section.

(3) The Maryland use sticker issued under this section shall be valid for a period not to exceed 2 years expiring on December 31 of the calendar year following the year the sticker is issued.

(b) Application; fee.- The owner of the vessel shall:

(1) Submit an application to the Department on the form that the Department requires and be signed by every owner of the vessel; and

- (2) Pay to the Department an application fee of \$10 for the 2-year sticker.
- (c) Sale of vessel.- Within 30 days after the sale or other transfer of a vessel that is or should display a sticker under this section:
 - (1) The transferor shall give notice of the transfer to the Department on a form that the Department requires; and
 - (2) If the transferee intends to continue to use the vessel principally on the waters of the State, the transferee shall submit an application for a Maryland use sticker and pay the fee as required by subsection (b) of this section.
- (d) Display of sticker.- The Maryland use sticker shall be displayed on or about the forward half of the vessel.
- (e) Operation without sticker prohibited.- Unless the vessel that is subject to the requirement of this section displays a current sticker:
 - (1) A person may not operate the vessel on the waters of the State; and
 - (2) The owner may not knowingly permit the vessel to be operated on the waters of the State.

History

[1981, ch. 359; 1984, ch. 589; 1990, ch. 6, ' 2; 1994, ch. 434.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a) (3), substituted "the validation sticker" for "it"; in (b) (1), substituted "the Department requires" for "it requires"; and in (c) (2), substituted "the transferee shall" for "he shall."

The 1994 amendment, effective Jan. 1, 1995, substituted "vessel" for "yacht" throughout the section; substituted "a Maryland use sticker" for "validation" in (a) (1) and (c) (2); substituted "Maryland use sticker" for "validation sticker" in (a) (2) and (d); rewrote (a) (3); substituted "\$10 for the 2-year sticker" for "\$5" in (b) (2); substituted "display a sticker" for "be validated" in the introductory language of (c); and in (e), deleted "validation" preceding "requirement" and "sticker."

Editor's note. Section 2, ch. 434, Acts 1994, provides that "notwithstanding the provisions of ' 1 of this Act, for the purposes of implementing a staggered system of renewal for certificates of number and documented vessel stickers, the Maryland Department of Natural Resources may require that up to one-half of the certificates of number and documented vessel stickers that are to be renewed following January 1, 1995 shall be renewed for 1 year. Any certificate or sticker renewed for 1 year under the provisions of this section shall be renewed in accordance with ' 1 of this Act for all subsequent renewals."

' 8-712.2. Boating safety education.

Statute text

- (a) When required; certificate required.-
 - (1) Except as otherwise provided in paragraphs (3) and (4) of this subsection, on or after July 1, 1988 a person born on or after July 1, 1972 may not operate on the waters of the State a vessel for pleasure that is required to be numbered in accordance with this subtitle or a vessel for pleasure that is required to be numbered in accordance with the Federal Boat Safety Act of 1971 without first obtaining a certificate of boating safety education.

- (2) A person who is subject to the provisions of paragraph (1) of this subsection shall:
- (i) Possess the certificate of boating safety education when operating a vessel on waters of the State; and
 - (ii) Show the certificate on the demand of a Natural Resources police officer or other law enforcement officer.
- (3) The following persons are exempt from the requirements of this section:
- (i) A person who is operating a vessel in connection with commercial purposes;
 - (ii) A person who is a resident of another state and who is visiting the State for 60 days or less in a vessel that is numbered in another state if:
 1. The person is 16 years old or older; or
 2. The person has been issued a boating safety certificate in accordance with the provisions of subsection (c) (6) of this section;
 - (iii) A person who is visiting the State for 90 days or less in a vessel from a country other than the United States;
 - (iv) A person operating a vessel on a body of water located on private property; and
 - (v) Any other person exempted by regulation of the Department.
- (4) When a vessel numbered in accordance with this subtitle or in accordance with the Federal Boat Safety Act of 1971 is operated for pleasure on waters of the State, at least 1 person on the vessel must:
- (i) Possess the certificate of boating safety education; or
 - (ii) Be exempt from the certification requirements of paragraph (1) of this subsection.
- (b) Regulations.-
- (1) The Department shall:
- (i) Adopt regulations that establish criteria for a course of instruction in boating safety education;
 - (ii) Administer a verbal test when appropriate;
 - (iii) Coordinate a statewide program of boating safety instruction and certification and ensure that a course of boating safety education is available within each county; and
 - (iv) Ensure that a course of boating safety education is available at the earliest practicable age for children in boating communities.
- (2) Any course of boating safety education that is offered through a public school is not required to be more than 6 classes, or exceed a total of 8 hours.
- (3) The following persons may offer the course of instruction in boating safety education if approved by the Department:
- (i) The Department;
 - (ii) The U.S. Coast Guard Auxiliary;
 - (iii) The U.S. Power Squadron;
 - (iv) A political subdivision;
 - (v) A municipal corporation;
 - (vi) An agency;
 - (vii) A public or nonpublic school;
 - (viii) A group;
 - (ix) A firm;
 - (x) An association; or
 - (xi) Any other person.

(c) Issuance of certificate.-

(1) The Department or the Department's designee shall issue a certificate of boating safety education to a person who:

- (i) Passes the course prescribed by the Department in boating safety education; or
- (ii) Passes a boating safety equivalency examination administered by persons authorized to offer the course on boating safety education.

(2) Upon request, the Department shall provide, without charge, boating safety education materials to persons who plan to take the boating safety equivalency examination.

(3) (i) Once issued, the certificate of boating safety education:

- 1. Is valid for the lifetime of the person to whom the certificate was issued; and
- 2. May not be revoked by the Department or a court of law.

(ii) The Department shall replace, without charge, a lost or destroyed certificate if the Department issued the certificate or has a record that the certificate was issued by the U.S. Coast Guard or the U.S. Power Squadron.

(4) (i) The Department or the Department's designee may issue a 30-day temporary certificate of boating safety education to a person who signs an affidavit stating that the person has read and understood the boating safety education materials provided by the Department.

(ii) The 30-day temporary certificate of boating safety education issued in accordance with subparagraph (i) of this paragraph may be renewed for 1 additional 30-day period.

(5) In lieu of a certificate of boating safety education issued by the Department, a license issued by the U.S. Coast Guard, or a boating safety certificate issued by a unit of the U.S. Coast Guard Auxiliary, the U.S. Power Squadron, or a local board of education, is sufficient to comply with the requirements of this section.

(6) In lieu of a certificate of boating safety education issued by the Department, a boating safety certificate issued in another state in accordance with criteria of the National Association of State Boating Law Administrators is sufficient to comply with the requirements of this section.

(d) Violation.- On or after July 1, 1988 a person who is subject to the provisions of subsection (a) (1) of this section and who operates on waters of the State a vessel for pleasure that is required to be numbered in accordance with this subtitle or a vessel for pleasure that is required to be numbered in accordance with the Federal Boat Safety Act of 1971, in violation of any requirement of this section, is guilty of a misdemeanor and on conviction is subject to:

- (1) For a first offense, a fine not exceeding \$25; and
- (2) For any subsequent offense that occurs within 2 years of a prior conviction under this section, a fine not exceeding \$500.

(e) Juvenile violators.- A juvenile charged with any violation under this section shall be charged under Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article.

(f) Enforcement.-

(1) A Natural Resources police officer or other law enforcement officer may enforce the provisions of this section only as a secondary action when the officer detains an operator of a vessel for a suspected violation of another provision of the Code or regulations adopted in accordance with another provision of the Code.

(2) A person may be cited but not apprehended solely for a violation of this section.

History

[1987, ch. 640; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a) (1), substituted "1988 a" for "1988, a"; in (c) (1), substituted "the Department's" for "its" in the introductory language, and substituted "the course prescribed by the Department in" for "the departmentally prescribed course in" in (i); divided the provisions of (c) (3) (i) into introductory language, (c) (3) (i) 1. and (c) (3) (i) 2., and substituted "the certificate" for "it" in (c) (3) (i) 1.; in (c) (4) (i), substituted "the Department's" for "its"; in (c) (4) (ii), substituted "subparagraph (i) of this paragraph" for "paragraph (4) (i) of this subsection" and "1" for "one"; in (d), substituted "1988 a" for "1988, a" and "subsection (a) (1)" for "paragraph (1) of subsection (a)" in the introductory language; and in (f) (2), substituted "cited but" for "cited, but" and "solely for" for "solely, for."

Educational programs not inconsistent with regulations. - Subsection (a) (1) shows a legislative intent that boating safety be promoted through education; however, there is no inconsistency between educational programs to promote boating safety and regulations imposing restrictions upon who can operate certain vessels. *Christ v. Maryland Dep't of Natural Resources*, 335 Md. 427, 644 A.2d 34 (1994).

' 8-712.3. Rentals of livery vessels.

Statute text

(a) Definitions.-

(1) In this section the following words have the meanings indicated.

(2) "Livery vessel owner" means a person who engages in whole or in part in the business of renting, leasing, or chartering a Class A vessel for a period of less than 24 hours.

(3) "Class A vessel" means a motorboat that is less than 16 feet in length as defined by the U.S. Coast Guard in 46 CFR ' 24.10-17.

(4) "Seaworthy condition" means the ability to withstand ordinary stress of wind, waves, and other weather that the vessel might normally be expected to encounter.

(b) Requirements for rental.- A livery vessel owner or an agent or employee of the livery vessel owner may not rent or offer for rent a Class A vessel to be operated on the waters of the State unless:

(1) Each vessel is in seaworthy condition and equipped for the waters where the vessel is intended to be used; and

(2) The livery vessel owner or agent or employee of the livery vessel owner possesses a boating safety certificate approved by the Department.

(c) Violations.- A violation of subsection (b) of this section shall be considered a boating safety violation for purposes of ' 8-740 (a) of this subtitle.

History

[1998, ch. 9.]

Annotations

Editor's note. Section 2, ch. 9, Acts 1998, provides that the act shall take effect Oct. 1, 1998.

' 8-713. Operation of unnumbered vessel prohibited.

Statute text

A person may not operate or give permission to operate any vessel on the waters of the State

unless the vessel is numbered as required by this subtitle.

History

[An. Code 1957, art. 14B, ' 5; 1973, 1st Sp. Sess., ch. 4, ' 1; 1984, ch. 589.]

' 8-714. Manufacturer's or dealer's transfer of vessel numbers; restriction on use of manufacturer's or dealer's number.

Statute text

(a) Applications for manufacturer's or dealer's certificates of number.- If a licensed dealer or manufacturer owns a vessel mainly used in the dealer's or manufacturer's business and held for sale and that otherwise is required to be numbered under this title, the dealer or manufacturer may apply to the Department for the issuance of as many dealer's or manufacturer's certificates of number as are required for the normal operation of business and as the Department authorizes. A broker licensed as a dealer may not obtain manufacturer's or dealer's certificates.

(b) Transfer of numbers.- Numbers displayed by authority of manufacturer's or dealer's certificates of number may be transferred from 1 vessel to another vessel owned by the manufacturer or dealer and may be affixed in a temporary manner. These numbers shall be used only on vessels demonstrated, tested, or owned by the manufacturer or dealer, and these numbers are not valid for use on the vessels when chartered, rented, or leased by the manufacturer or dealer.

(c) Forms for application for manufacturer's or dealer's certificates of number.- Each application for the manufacturer's or dealer's certificates of number shall be on forms the Department approves and be accompanied by a fee of \$24. The certificate of number issued under this section is valid for a period not to exceed 2 years and shall expire on December 31 of the calendar year following the year the certificate is issued.

History

[An. Code 1957, art. 14B, ' 4-O; 1973, 1st Sp. Sess., ch. 4, ' 1; 1986, ch. 828, ' 1; 1990, ch. 6, ' 2; 1994, ch. 434.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "1" for "one" in the first sentence of (b).

The 1994 amendment, effective Jan. 1, 1995, in (c), substituted "a fee of \$24" for "an annual fee of \$12" in the first sentence and substituted "is valid for . . . is issued" for "expires December 31 of each year it is issued" in the second sentence.

Editor's note. Section 2, ch. 434, Acts 1994, provides that "notwithstanding the provisions of ' 1 of this Act, for the purposes of implementing a staggered system of renewal for certificates of number and documented vessel stickers, the Maryland Department of Natural Resources may require that up to one-half of the certificates of number and documented vessel stickers that are to be renewed following January 1, 1995 shall be renewed for 1 year. Any certificate or sticker renewed for 1 year under the provisions of this section shall be renewed in accordance with ' 1 of this Act for all subsequent renewals."

' 8-715. Owner's certificate of title - In general.

Statute text

(a) Application.- Except as provided in subsection (d) of this section, any owner of a vessel principally used on the waters of the State and to be numbered shall apply to the Department for a certificate of title for the vessel.

(b) Contents and form.- Each certificate of title shall contain the information and shall be issued in a form the Department prescribes.

(c) Prerequisite to issuance of certificate of number.- The Department may not issue or renew a certificate of number to any vessel required to be registered and numbered in the State unless the Department has issued a certificate of title to the owner.

(d) Exception for person owning vessel with valid certificate of number on July 1, 1965.- A person who on July 1, 1965 is the owner of a vessel with a valid certificate of number issued by the State is not required to file an application for a certificate of title for the vessel unless the person:

(1) Transfers any part of the person's interest in the vessel; or

(2) Renews the certificate of number for the vessel.

(e) Application requirements - Form; oath; contents.- Every owner of a vessel subject to titling under the provisions of this subtitle shall apply to the Department for issuance of a certificate of title for the vessel within 30 days after acquisition. The application shall be on forms the Department prescribes, and accompanied by the required fee and tax. The application shall be signed and sworn to before a notary public or other person who administers oaths, or a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the vessel or the fair market value if no sale immediately preceded the transfer, and any additional information the Department requires. If the application is made for a vessel last previously registered or titled in another state or foreign country, the application shall contain this information and any other the Department requires.

(f) Same - Dealer buying or acquiring vessel for resale.- If a dealer buys or acquires a used vessel for resale, the dealer shall report the acquisition to the Department on forms the Department provides, or the dealer may apply for and obtain a certificate of title as provided in this subtitle. If a dealer buys or acquires a used non-Maryland numbered vessel, the dealer shall apply for a certificate of title in the dealer's name within 15 days. If a dealer buys or acquires a new vessel for resale, the dealer may apply for a certificate of title in the dealer's name. These transactions are exempt from title tax.

(g) Same - Dealer transferring vessel requiring title.- Every dealer transferring a vessel requiring titling under this subtitle shall assign the title to the new owner or, in the case of a new vessel, assign the certificate of origin. Within 30 days, the dealer shall forward all title taxes, fees, and applications to the Department.

(h) Department record of title certificates.- The Department shall maintain a record of any certificate of title the Department issues.

(i) Sale, purchase, etc., without certificate prohibited.- A person may not sell, assign, or transfer

a vessel titled by the State without delivering to the purchaser or transferee a certificate of title with an assignment on the certificate of title showing title in the purchaser or transferee. A person may not purchase or otherwise acquire a vessel required to be titled by the State without obtaining a certificate of title for the vessel in the person's name.

History

[An. Code 1957, art. 14B, ' ' 4A-4D, 4G, 4H; 1973, 1st Sp. Sess., ch. 4, ' 1; 1981, chs. 203, 716; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), inserted "of this section"; divided the provisions of (d) into introductory language, (d) (1) and (d) (2); substituted "who on July 1, 1965 is" for "who, on July 1, 1965, is" and "the person" for "he" in the introductory language of (d); substituted "the person's" for "his" in (d) (1); deleted "he" at the beginning of (d) (2); substituted "information, and" for "information and" in the third sentence, and "the application shall" for "it shall" in the last sentence, of (e); substituted "the dealer" for "he" and "the dealer's" for "his" throughout (f); substituted "owner or, in" for "owner, or in" and "vessel, assign" for "vessel assign" in the first sentence of (g); substituted "the Department issues" for "it issues" in (h); and in (i), substituted "a person may not" for "no person may" in the first and second sentences, substituted "the certificate of title" for "it" in the first sentence, and substituted "the vessel" for "it" and "the person's" for "his" in the second sentence.

' 8-716. Same - Fees; excise tax [Amendment subject to abrogation effective June 30, 2001].

Statute text

(a) Definitions.-

(1) In this section the following words have the meanings indicated.

(2) "Fair market value" means:

(i) As to the sale of any vessel by a licensed dealer, the total purchase price, as certified by the dealer on a form acceptable to the Department, less the value of any vessel that is traded in as part of the consideration for the sale and to which the dealer takes title, which trade-in value may not exceed the value for the trade-in vessel as shown in a national publication of used vessel values adopted by the Department;

(ii) As to any other vessel that is sold by any person other than a licensed dealer, the greater of:

1. The total purchase price; or

2. \$100; or

(iii) As to any other vessel that is sold by any person other than a licensed dealer, either:

1. The total purchase price, if verified by means of a certified bill of sale approved by the Department, in which the actual price paid for the vessel is stated; or

2. The valuation shown in a national publication of used vessel values adopted by the Department if a certified bill of sale does not accompany the application.

(3) "Used principally in this State" means that this State is the state of principal use as defined in ' 8-701 (n) of this subtitle, except that in calculating where the vessel is used or used most, a

vessel is not considered to be in use for any period of time that it is held for maintenance or repair for 30 consecutive days or more.

(4) "Total purchase price" means the price of a vessel, including simultaneously purchased motors, spars, sails, and accessories exclusive of trailer, agreed on by the buyer and seller, with no deduction for trade-in or other nonmonetary consideration.

(5) (i) "Vessel" has the meaning indicated in ' 8-701 (p) of this subtitle.

(ii) "Vessel" does not include a ship's lifeboat, a vessel propelled only by sail, or vessel manually propelled.

(b) Fee for issuance of original and duplicate certificate.- The Department shall charge a \$2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title.

(c) Levy and amount of excise tax; title tax in lieu of sales tax or use tax; owners prior to June 1, 1965, exempt.-

(1) Except as provided in ' 8-715 (d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:

(i) The issuance of every original certificate of title required for a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;

(iii) The sale within the State of every other vessel; and

(iv) The possession within the State of a vessel purchased outside the State to be used principally in the State.

(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.

(d) Remittance of uncollected tax.- If the tax is not collected by a licensed dealer pursuant to ' 8-716.1 of this subtitle, the owner, whether or not applying for the issuance of a title, shall remit the tax directly to the Department within 30 days of the date of sale or, in the case of a vessel purchased outside the State, within 30 days of the date upon which the possession within the State became subject to the tax.

(e) When fee or tax not required to be paid.- A person is not required to pay the tax provided for in subsection (c) of this section resulting from:

(1) A transfer between members of the immediate family as determined by Department regulations;

(2) A transfer to a licensed dealer of a vessel for resale, rental, or lease purposes;

(3) Purchase of a vessel by the State or any political subdivision;

(4) Purchase of a vessel by an eleemosynary organization which the Secretary has approved;

(5) The purchase within the State of a vessel if the owner paid or incurred a liability for the Maryland sales and use tax on the vessel prior to July 1, 1986;

(6) The possession within the State of a vessel which was purchased outside the State if the owner paid or incurred a liability for the Maryland use tax on the vessel prior to July 1, 1986;

(7) The possession of a vessel that was purchased or acquired prior to coming into the State by a nonresident of the State and is not used principally on the waters of the State and if the issuance

of a title is not sought;

(8) The possession within the State of a vessel if the current owner, before July 1, 1986:

(i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams, oysters, or any other fish; and

2. Used the vessel for any of the commercial fishing purposes described in item (i) 1. of this paragraph; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of ' 4-210 of this article; and

2. Used the vessel as a charter boat with a license as provided in ' 4-745 (d) (2) of this article; or

(9) The possession within the State of a vessel that:

(i) Is owned by a nonprofit organization that:

1. Is qualified as tax exempt under ' 501 (c) (4) of the Internal Revenue Code; and

2. Is engaged in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization.

(f) Applicability to possession within the State of a vessel.-

(1) This subsection applies to possession within the State of a vessel if:

(i) The vessel was formerly:

1. Titled or numbered in another jurisdiction; or

2. Federally documented and principally used in another jurisdiction;

(ii) The present owner has paid a sales or excise tax on the vessel to the other jurisdiction; and

(iii) The jurisdiction to which the tax was paid would allow an exemption or credit under its sales or excise tax for excise tax on a vessel formerly paid to the State.

(2) For a vessel described in paragraph (1) of this subsection:

(i) If the rate of the tax paid to the other jurisdiction is not less than the rate under subsection (c) of this section, the tax imposed under subsection (c) of this section does not apply to possession of the vessel within the State;

(ii) If the rate of the tax paid to the other jurisdiction is less than the rate under subsection (c) of this section, the rate of the tax imposed under subsection (c) of this section on possession of the vessel within the State is the difference between the tax rate paid to the other jurisdiction and the rate under subsection (c) of this section; and

(iii) The Department may require the taxpayer to submit satisfactory proof of the payment of a tax to another jurisdiction and the rate of tax paid and, where applicable, evidence of principal use of a federally documented vessel in another jurisdiction.

(3) This subsection is applicable to any vessel incurring a liability for Maryland boat excise tax on or after July 1, 1986.

(g) Tax credit.-

(1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item (i) 1. of this paragraph; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of ' 4-210 of this article; and

2. Used the vessel as a charter boat with a license as provided in ' 4-745 (d) (2) of this article.

(2) The Department may require a person claiming the credit allowed under this subsection to submit satisfactory proof of payment of the sales tax and that the materials or equipment have been incorporated into the vessel.

(h) Deposit and expenditure of funds derived from excise tax generally.- Notwithstanding the provisions of ' 8-723 of this subtitle, the Department shall deposit \$225,000 of funds from the excise tax levied under this section with the Comptroller of the Treasury in the General Fund, and the balance in excess of \$225,000 with the Comptroller of the Treasury in the Waterway Improvement Fund to be expended only for the purposes specified.

(i) Overpayment of tax.- If the Department determines there has been an overpayment of the tax on a vessel, or an overpayment has resulted for any other reason, the Department may submit the overpayment and supporting data whether accompanied by a written claim or not to the State Comptroller for refund to the appropriate person.

(j) Deposit and use of funds for enforcement of State Boat Act.- Notwithstanding any other provision of this section, the Department shall deposit, in accordance with the provisions of ' 8-723 of this subtitle, up to \$350,000 of funds from the excise tax levied under this section and as appropriated in the State budget, to be used for enforcement of the State Boat Act, including collection of the excise tax levied under this section.

History

[An. Code 1957, art. 14B, ' ' 4E, 4F, 6; 1973, 1st Sp. Sess., ch. 4, ' 1; 1974, ch. 864, ' 3; 1975, ch. 55; 1976, ch. 391; 1977, ch. 673; 1981, chs. 203, 481; 1983, ch. 8; 1986, ch. 828, ' 1; 1987, ch. 126, ' 6; 1988, ch. 110, ' 1; ch. 729; ch. 743, ' ' 1, 2; 1989, ch. 5, ' 1; 1990, ch. 6, ' 2; ch. 164; 1992, ch. 22, ' 1; 1994, ch. 434; 1997, ch. 382; 1998, ch. 485.]

Annotations

Effect of amendments. Chapter 110, Acts 1988, effective Jan. 1, 1989, in subsection (c) (2), deleted "if he" preceding, and inserted "and use" following, "paid Maryland sales" in the first sentence, and substituted "the applicant owned" for "he owned" in the second sentence; and, in subsection (e) (5), substituted "Maryland sales and use tax" for "Maryland retail sales tax".

Chapter 729, Acts 1988, effective July 1, 1988, substituted "subsections (e) and (f)" for "subsection (e)" near the beginning of subsection (c) (1); and inserted present subsection (f) and redesignated the following subsections accordingly.

Chapter 743, Acts 1988, effective July 1, 1988, reenacted subsection (c) (1) without change; inserted subsection (e) (8); and inserted the subsection designated herein as subsection (g) and redesignated the following subsections accordingly.

The 1989 amendment, approved Mar. 9, 1989, and effective from date of passage, in the introductory language of (e), inserted "of this section"; and in (e) (8) (ii) 2. and (g) (1) (ii) 2., substituted "charter boat" for "charterboat."

Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of passage, substituted "the State" for "this State" throughout (a) (3), present (c) (1) (iii) and (iv), (d), (e) (5) through (7), (f) (1) and (2), and (g) (1); in (a) (2) (ii) 2., added "or" at the end; in (a) (3), substituted "the vessel" for "it" in the second sentence; divided the provisions of (a) (5) into (a) (5) (i) and (ii); substituted "8-701 (p) of this subtitle" for "' 8-701 (o)" in (a) (5) (i); deleted "except that" at the

beginning of (a) (5) (ii); substituted "title, or a duplicate or" for "title, a duplicate, or a" in (b); divided the provisions of (c) (1) into introductory language and (c) (1) (i) through (iv); in (c) (1), substituted "' 8-715 (d) of this subtitle" for "subsection (d) of ' 8-715" and "%" for "percent" in the introductory language, deleted "on" at the beginning of (i), and deleted "upon" at the beginning of (iii) and (iv); inserted "of this subtitle" and substituted "sale or, in" for "sale or in" in (d); in (f) (2), inserted "of this section" in (i) and the last two places that phrase appears in (ii); inserted "the provisions of" in (h); substituted "the Department may" for "it may" in (i); and inserted "the provisions of " in (j).

Chapter 164, Acts 1990, effective July 1, 1990, reenacted (a) (1) without change; and rewrote (a) (3).

The 1992 amendment, approved Apr. 7, 1992, and effective from date of enactment, substituted "meanings" for "meaning" in (a) (1).

The 1994 amendment, effective Jan. 1, 1995, reenacted (b) without change.

The 1997 amendment, effective July 1, 1997, added (e) (9).

Chapter 485, Acts 1998, effective July 1, 1998, rewrote (a) (2) (i).

Editor's note. Section 1, ch. 126, Acts 1987, provides that "(1) Subject to ' 2 of this act, the Comptroller shall declare an amnesty period for delinquent taxpayers from September 1, 1987 to October 31, 1987, both inclusive.

(2) The amnesty period shall be applicable to the Maryland income taxes, withholding taxes, sales and use taxes, and admissions and amusement taxes.

(3) The waiver required under this act applies to:

- (i) Nonreporting of tax liability;
- (ii) Underreporting of tax liability; and
- (iii) Nonpayment of tax liability."

Section 2 of ch. 126 provides that "under this act, the Comptroller may not waive any interest charges or previously assessed fraud penalties.

(a) The Comptroller shall waive all civil penalties (except previously assessed fraud penalties) attributable to taxes paid during the amnesty period, imposed against a taxpayer who:

(1) Before December 31, 1986, failed to file a return or pay the tax imposed under Article 81 of the Code for:

- (i) Individual income tax;
- (ii) Corporate income tax;
- (iii) Withholding tax;
- (iv) Retail sales or use tax; and
- (v) Admissions and amusement tax; and

(2) During the amnesty period:

- (i) Files a delinquent return and pays the tax due under the return, including all interest; or
- (ii) Pays the tax, plus all interest, due on a previously filed return.

(b) (1) Except as herein provided, no taxpayer shall be charged with a criminal tax offense arising out of any return filed and tax paid during the amnesty period if the taxpayer, pursuant to the provisions hereof, during the amnesty period either:

- (i) Files a delinquent return and pays the tax due under the return, including all interest; or
- (ii) Pays the tax, plus all interest, due on a previously filed return.

(2) The amnesty from criminal charges set forth in subsection (b) (1) of this ' 2, does not apply

to:

- (i) Any criminal charges pending in the courts of Maryland; and
- (ii) Any criminal charges under investigation by an office with the constitutional authority to prosecute a person for violation of criminal laws. An office with constitutional authority to prosecute persons for violation of the criminal laws includes the Office of the Attorney General of Maryland, the Office of the State Prosecutor, and the Office of State's Attorney for any of the political subdivisions of Maryland and does not include the State Comptroller."

Section 4 of ch. 126 provides that "(1) Subject to ' 5 of this act, the Secretary of Natural Resources shall declare an amnesty period for delinquent taxpayers from September 1, 1987 to October 31, 1987, both inclusive.

(2) The amnesty period shall be applicable to the excise taxes levied under ' 8-716 of the Natural Resources Article.

(3) The waiver required under this act applies to:

- (i) Nonreporting of tax liability;
- (ii) Underreporting of tax liability; and
- (iii) Nonpayment of tax liability."

Section 5 of ch. 126 provides that "under this act, the Secretary of Natural Resources may not waive any interest charges or previously assessed fraud penalties.

(a) The Secretary of Natural Resources shall waive all civil penalties (except previously assessed fraud penalties) attributable to taxes paid during the amnesty period, imposed against a taxpayer who:

(1) Before December 31, 1986, failed to pay the excise tax levied under ' 8-716 of the Natural Resources Article; and

(2) During the amnesty period pays the tax due, including all interest.

(b) (1) Except as herein provided, no taxpayer shall be charged with a criminal tax offense arising out of any tax paid during the amnesty period if the taxpayer, pursuant to the provisions hereof, during the amnesty period pays any tax previously due, including all interest.

(2) The amnesty from criminal charges set forth in subsection (b) (1) of this ' 5 does not apply to:

- (i) Any criminal charges pending in the courts of Maryland; and
- (ii) Any criminal charges under investigation by an office with the constitutional authority to prosecute a person for violation of criminal laws. An office with constitutional authority to prosecute persons for violation of the criminal laws includes the Office of the Attorney General of Maryland, the Office of the State Prosecutor, and the Office of State's Attorney for any of the political subdivisions of Maryland, and does not include the State Comptroller or the Secretary of Natural Resources."

Section 8 of ch. 126 provides that "by March 15, 1988, the Comptroller and the Secretary of Natural Resources shall report to the General Assembly:

- (1) The revenues raised under the amnesty program; and
- (2) Other matters relating to the amnesty program."

Section 9 of ch. 126 provides that "that part of ' 3 of this act increasing the criminal fines and penalties under ' ' 302 (b), 312 (h) (5), 312A (b), 320, and 369 of Article 81 and that part of ' 3 of this act providing for personal liability under ' 405 (c) of Article 81 shall take effect November 1, 1987 and be applicable to all returns filed or due to be filed after October 31,

1987."

Section 10 of ch. 126 provides that "that part of ' 3 of this act increasing the civil income tax penalties under ' 318 shall take effect November 1, 1987 and be applicable to all returns that have not been paid in full, including payment of all assessed interest and penalties, as of November 1, 1987."

Section 11 of ch. 126 provides that "the Comptroller shall distribute the revenue collected pursuant to ' ' 1 and 2 of this act from the amnesty program in accordance with the applicable provisions of Article 81 of the Annotated Code, except that the proceeds that would be credited to the General Fund of the State under those provisions shall be distributed as follows:

(1) The first \$20 million shall be distributed to the General Fund of the State for the appropriations contained in the Budget Bill for Fiscal Year 1988; and
(2) Any funds in excess of \$20 million shall be distributed to the State Reserve Fund in the following manner:

(a) One-half of the funds to the Dedicated Purpose Account to be used for nonrecurring expenditures such as pay-as-you-go capital projects, transferred to the Loan Fund in lieu of previously authorized bonds or for savings and loan reserves; and

(b) One-half of the funds to the Revenue Stabilization Account."

Section 12 of ch. 126 provides that "that part of ' 7 of this act increasing a criminal fine and penalty under ' 8-739 of the Natural Resources Article shall take effect November 1, 1987 and be applicable to any tax due after October 31, 1987."

Section 13 of ch. 126 provides that "the revenue collected by the Secretary of Natural Resources pursuant to ' ' 4 and 5 of this act from the amnesty program shall be distributed in accordance with Title 8, Subtitle 7 of the Natural Resources Article of the Annotated Code."

Section 14 of ch. 126 provides that "' 6 of this act shall take effect on June 1, 1987 and, subject to ' ' 9, 10, and 12 of this act, the other provisions of this act shall take effect on July 1, 1987."

Section 15 of ch. 126 provides that "funds appropriated to the Comptroller in the Fiscal Year 1988 State Budget for the purposes of providing publicity during the amnesty period shall also be used to publicize the amnesty program in the Department of Natural Resources."

Section 7, ch. 110, Acts 1988, provides that "this act shall take effect Jan. 1, 1989, contingent on the taking effect of Chapter ____ of the Acts of the General Assembly of 1988 (S.B. 1), and if Chapter ____ does not become effective, this act shall be null and void without the necessity of further action by the General Assembly." Senate Bill 1 was enacted as ch. 2, Acts 1988.

Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

Section 2, ch. 434, Acts 1994, provides that "notwithstanding the provisions of ' 1 of this Act, for the purposes of implementing a staggered system of renewal for certificates of number and documented vessel stickers, the Maryland Department of Natural Resources may require that up to one-half of the certificates of number and documented vessel stickers that are to be renewed following January 1, 1995 shall be renewed for 1 year. Any certificate or sticker renewed for 1 year under the provisions of this section shall be renewed in accordance with ' 1 of this Act for all subsequent renewals."

Section 2, ch. 485, Acts 1998, provides that "the Department of Business and Economic

Development in cooperation with the Marine Trades Association of Maryland, Inc. and other interested trade associations and tourism boards, may develop and implement a marketing and tourism plan to promote boating in Maryland."

Section 3, ch. 485, Acts 1998, provides that "the Department of Natural Resources shall decrease the amount of Waterway Improvement Fund revenues it spends on marine operations in the Natural Resources Police by \$750,000 per year until the amount spent for these purposes does not exceed the \$1,000,000 limit allowed by ' 8-709 of the Natural Resources Article. The Governor shall include \$750,000 in general funds in the annual budget for the use of the Department to replace that amount of Waterway Improvement Fund revenues."

Section 4, ch. 485, Acts 1998, provides that "' 1 of this Act shall be applicable to all vessels with respect to which a liability for the boat excise tax is incurred on or after July 1, 1998."

Section 5, ch. 485, Acts 1998, provides that "this Act shall take effect July 1, 1998. Section 1 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2001, with no further action required by the General Assembly, ' 1 of this Act shall be abrogated and of no further force and effect."

(Abrogation of amendment effective June 30, 2001.)

' 8-716. Same - Fees; excise tax.

Statute text

(a) Definitions.-

(1) In this section the following words have the meanings indicated.

(2) "Fair market value" means:

(i) As to the sale of any vessel by a licensed dealer, the total purchase price, as certified by the dealer;

(ii) As to any other vessel that is sold by any person other than a licensed dealer, the greater of:

1. The total purchase price; or

2. \$100; or

(iii) As to any other vessel that is sold by any person other than a licensed dealer, either:

1. The total purchase price, if verified by means of a certified bill of sale approved by the Department, in which the actual price paid for the vessel is stated; or

2. The valuation shown in a national publication of used vessel values adopted by the Department if a certified bill of sale does not accompany the application.

(3) "Used principally in this State" means that this State is the state of principal use as defined in ' 8-701 (n) of this subtitle, except that in calculating where the vessel is used or used most, a vessel is not considered to be in use for any period of time that it is held for maintenance or repair for 30 consecutive days or more.

(4) "Total purchase price" means the price of a vessel, including simultaneously purchased motors, spars, sails, and accessories exclusive of trailer, agreed on by the buyer and seller, with no deduction for trade-in or other nonmonetary consideration.

(5) (i) "Vessel" has the meaning indicated in ' 8-701 (p) of this subtitle.

(ii) "Vessel" does not include a ship's lifeboat, a vessel propelled only by sail, or vessel manually propelled.

- (b) Fee for issuance of original and duplicate certificate.- The Department shall charge a \$2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title.
- (c) Levy and amount of excise tax; title tax in lieu of sales tax or use tax; owners prior to June 1, 1965, exempt.-
- (1) Except as provided in ' 8-715 (d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:
- (i) The issuance of every original certificate of title required for a vessel under this subtitle;
 - (ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;
 - (iii) The sale within the State of every other vessel; and
 - (iv) The possession within the State of a vessel purchased outside the State to be used principally in the State.
- (2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.
- (d) Remittance of uncollected tax.- If the tax is not collected by a licensed dealer pursuant to ' 8-716.1 of this subtitle, the owner, whether or not applying for the issuance of a title, shall remit the tax directly to the Department within 30 days of the date of sale or, in the case of a vessel purchased outside the State, within 30 days of the date upon which the possession within the State became subject to the tax.
- (e) When fee or tax not required to be paid.- A person is not required to pay the tax provided for in subsection (c) of this section resulting from:
- (1) A transfer between members of the immediate family as determined by Department regulations;
 - (2) A transfer to a licensed dealer of a vessel for resale, rental, or lease purposes;
 - (3) Purchase of a vessel by the State or any political subdivision;
 - (4) Purchase of a vessel by an eleemosynary organization which the Secretary has approved;
 - (5) The purchase within the State of a vessel if the owner paid or incurred a liability for the Maryland sales and use tax on the vessel prior to July 1, 1986;
 - (6) The possession within the State of a vessel which was purchased outside the State if the owner paid or incurred a liability for the Maryland use tax on the vessel prior to July 1, 1986;
 - (7) The possession of a vessel that was purchased or acquired prior to coming into the State by a nonresident of the State and is not used principally on the waters of the State and if the issuance of a title is not sought;
 - (8) The possession within the State of a vessel if the current owner, before July 1, 1986:
 - (i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams, oysters, or any other fish; and
 - 2. Used the vessel for any of the commercial fishing purposes described in item (i) 1. of this paragraph; or
 - (ii) 1. Was licensed as a commercial fishing guide under the provisions of ' 4-210 of this article; and

2. Used the vessel as a charter boat with a license as provided in ' 4-745 (d) (2) of this article; or

(9) The possession within the State of a vessel that:

(i) Is owned by a nonprofit organization that:

1. Is qualified as tax exempt under ' 501 (c) (4) of the Internal Revenue Code; and

2. Is engaged in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization.

(f) Applicability to possession within the State of a vessel.-

(1) This subsection applies to possession within the State of a vessel if:

(i) The vessel was formerly:

1. Titled or numbered in another jurisdiction; or

2. Federally documented and principally used in another jurisdiction;

(ii) The present owner has paid a sales or excise tax on the vessel to the other jurisdiction; and

(iii) The jurisdiction to which the tax was paid would allow an exemption or credit under its sales or excise tax for excise tax on a vessel formerly paid to the State.

(2) For a vessel described in paragraph (1) of this subsection:

(i) If the rate of the tax paid to the other jurisdiction is not less than the rate under subsection (c) of this section, the tax imposed under subsection (c) of this section does not apply to possession of the vessel within the State;

(ii) If the rate of the tax paid to the other jurisdiction is less than the rate under subsection (c) of this section, the rate of the tax imposed under subsection (c) of this section on possession of the vessel within the State is the difference between the tax rate paid to the other jurisdiction and the rate under subsection (c) of this section; and

(iii) The Department may require the taxpayer to submit satisfactory proof of the payment of a tax to another jurisdiction and the rate of tax paid and, where applicable, evidence of principal use of a federally documented vessel in another jurisdiction.

(3) This subsection is applicable to any vessel incurring a liability for Maryland boat excise tax on or after July 1, 1986.

(g) Tax credit.-

(1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item (i) 1. of this paragraph; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of ' 4-210 of this article; and

2. Used the vessel as a charter boat with a license as provided in ' 4-745 (d) (2) of this article.

(2) The Department may require a person claiming the credit allowed under this subsection to submit satisfactory proof of payment of the sales tax and that the materials or equipment have been incorporated into the vessel.

(h) Deposit and expenditure of funds derived from excise tax generally.- Notwithstanding the

provisions of ' 8-723 of this subtitle, the Department shall deposit \$225,000 of funds from the excise tax levied under this section with the Comptroller of the Treasury in the General Fund, and the balance in excess of \$225,000 with the Comptroller of the Treasury in the Waterway Improvement Fund to be expended only for the purposes specified.

(i) Overpayment of tax.- If the Department determines there has been an overpayment of the tax on a vessel, or an overpayment has resulted for any other reason, the Department may submit the overpayment and supporting data whether accompanied by a written claim or not to the State Comptroller for refund to the appropriate person.

(j) Deposit and use of funds for enforcement of State Boat Act.- Notwithstanding any other provision of this section, the Department shall deposit, in accordance with the provisions of ' 8-723 of this subtitle, up to \$350,000 of funds from the excise tax levied under this section and as appropriated in the State budget, to be used for enforcement of the State Boat Act, including collection of the excise tax levied under this section.

History

[1998, ch. 485.]

Annotations

Editor's note. Section 5, ch. 485, Acts 1998, provides that "this Act shall take effect July 1, 1998. Section 1 of this Act shall remain effective for a period of three years and, at the end of June 30, 2001, with no further action required by the General Assembly, ' 1 of this Act shall be abrogated and of no further force and effect." This section is set out above as it will appear after June 30, 2001, unless further action is taken by the General Assembly.

' 8-716.1. Same - Collection and remittance of excise tax.

Statute text

(a) Dealer to collect; commission.- The dealer shall collect the excise tax for the Department. For collecting and remitting the tax, a dealer may keep 1.2% of the gross tax the dealer collects. A dealer may not keep 1.2% of any gross tax amounts which were not forwarded to the Department within 30 days of collection, unless a waiver has been approved by the Secretary.

(b) Computation of tax by Department.- If the Department finds that a dealer has forwarded less than the amount of tax due and does not have adequate records or has incorrect records of sales or resales of new or used vessels and that the amount of excise tax collected for the Department on these sales cannot be determined accurately, the Department shall determine the taxable sales of the dealer for any period involved and compute the tax from the best information available. The computation shall be prima facie correct. However, if any dealer fails to keep any record of sales of vessels, the Department may determine the tax due to the Department by using a factor developed by surveying the business of the dealer, including any records available, or by surveying other taxpayers of the same type or otherwise compute the amount of tax due. This computation shall be prima facie correct.

(c) Deficiency assessment against dealer.- As provided in subsection (b) of this section, if the Department determines the taxable sales and computes the tax due, the Department shall levy against the dealer a deficiency assessment consisting of a penalty of 10%, plus interest at a rate of

1.5% per month, or fraction of a month, from the time the tax was due until paid. All amounts received from any dealer under this subsection shall be credited first to penalty and interest accrued and then to tax due.

(d) Failure to pay tax.-

(1) If a person obligated to pay the tax fails to pay the tax when due, there shall be assessed against the person, in addition to the tax due, a penalty of 10% plus interest at the rate of 1.5% per month or fraction of a month from the time the tax was due until paid. This penalty and interest may be waived by the Secretary if, within 30 days from the date of mailing of the notice of assessment, the taxpayer files an appeal showing cause why the tax is not paid when due. Any amounts received from any dealer or owner under this subsection shall be credited first to penalty and interest accrued and then to tax due.

(2) If the failure to pay the tax is due to an attempt to defraud, then the penalty shall be, in lieu of the penalty more specifically provided for under paragraph (1) of this subsection, 100% of the tax due plus interest at the rate of 1.5% per month or fraction of a month from the time due until paid.

(e) Absconding dealers.-

(1) If the Department finds that any dealer or other person liable for the tax imposed by this subtitle intends to depart from the State, remove the dealer's or other person's property from the State, conceal the dealer or other person or their property in the State, or do any other act tending to prejudice or render wholly or partly ineffectual proceedings to collect the tax, the Department shall notify the dealer or other person of its findings and demand an immediate payment of the tax, interest, and penalty.

(2) If the amount of tax, interest, and penalty specified in the notice of jeopardy assessment is not paid within 10 days of the service of the notice, the Department may bring any action that the Department considers advisable for the prompt collection of the tax.

(3) If, within 10 days of the service of the notice, the person liable for the tax files with the Department satisfactory evidence that the person is not in default in paying the tax or that the person will duly return and pay the tax, then the tax is not payable before the time otherwise required by this section. However, in each case, the findings of the Department as to the responsibility of the person liable for the tax are final and conclusive.

(f) Taxes imposed personal debt of person liable; limitation of actions to collect; liens.-

(1) The tax imposed by this subtitle and all increases, interests, and penalties on the tax shall become, from the time due and payable, a personal debt of the person liable to pay the tax to the State of Maryland. An action may be brought at any time within 3 years from the time the tax shall be due and payable by the Department in the name of the State to recover the amount of any taxes, penalties, and interest due under the provisions of this subtitle, but if there is proof of fraud or gross negligence, there shall be no limitation of the period in which the action may be brought. Proof of negligence amounting to 25% or more of the tax due shall be prima facie evidence of gross negligence.

(2) The tax and all increases, interests, and penalties on the tax shall be a lien upon all the property, real or personal, of any person liable to pay the tax to the State from and after the time when notice has been given that the tax has become due and payable as provided in this section. Notice of the lien shall be filed promptly by the Department with the clerk of the circuit court of the county in which the property is located or Baltimore City. Each clerk of court accurately and

promptly shall record and index all the notices of lien filed with the clerk by the Department and shall enter the lien in the judgment docket of the court, stating the name of the delinquent taxpayer, the amount of the lien and the date of the lien. The lien provided for in this section shall have the full force and effect of a lien of judgment. Unless another date is specified by law, the lien arising at the date of nonpayment, as in this section specified and provided for, shall continue with the same force and effect as a judgment lien. Any judgment lien on personal property is not effective as against an innocent purchaser for value, unless the personal property has been levied upon by an officer of a court.

(3) Notwithstanding any other provision of law, the Department may not collect or enforce any liability for the Maryland use tax that was incurred before July 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

(i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams, oysters, or any other fish; and

2. Used the vessel for any of the commercial fishing purposes described in item (i) 1. of this paragraph; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of ' 4-210 of this article; and

2. Used the vessel as a charter boat with a license as provided in ' 4-745 (d) (2) of this article.

(g) Violations; penalties.-

(1) A dealer or other person liable for the tax imposed by this subtitle may not:

(i) Willfully fail to collect the tax;

(ii) Willfully fail to remit the tax;

(iii) Willfully make any false statement or misleading omission with regard to the tax;

(iv) Willfully fail to keep records in accordance with this subtitle and any regulations pursuant to this subtitle; or

(v) Willfully evade payment of the tax by any means.

(2) Any person violating this subsection is guilty of a misdemeanor and upon conviction is subject to the penalties set forth in ' 8-739 of this subtitle.

History

[1981, ch. 203; 1986, ch. 828, ' 1; 1987, ch. 11, ' 1; 1988, ch. 6, ' 1; ch. 743; 1989, ch. 5, ' 1; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1; 1992, ch. 22, ' 1; 1994, ch. 434.]

Annotations

Effect of amendments. Chapter 6, Acts 1988, approved Feb. 18, 1988, and effective from date of passage, substituted "under paragraph (1) of this subsection" for "by subsection (d) of this section" near the middle of subsection (d) (2).

Chapter 743, Acts 1988, effective July 1, 1988, reenacted subsections (f) (1) and (f) (2) without change, and added subsection (f) (3).

The 1989 amendment, approved Mar. 9, 1989, and effective from date of passage, in (f) (3) (ii) 2., substituted "charter boat" for "charterboat."

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "%" for "percent" throughout the section; substituted "the dealer" for "he" in the second sentence of (a); inserted "of this section" and substituted "the Department shall" for "it shall" in the first sentence of (c); substituted "the person" for "him" in the first sentence, and "if, within" for "if within" in the second sentence of (d) (1); substituted "due plus" for "due, plus" in (d) (2);

redesignated the former introductory language of (e) as present (e) (1) and former (e) (1) and (2) as present (e) (2) and (3); in (e) (1), substituted "the State" for "this State" three times, and substituted "the dealer's or other person's" for "his," "the dealer or other person or their" for "himself or his," and "interest, and" for "interest and"; in (e) (2), substituted "the Department considers" for "it considers"; in (e) (3), substituted "the person is" for "he is," "the person will" for "he will," and "section" for "part" in the first sentence; in (f) (1), substituted "interests, and penalties on the tax" for "interests and penalties thereon" and "pay the tax" for "pay the same" in the first sentence, and "penalties, and" for "penalties and" in the second sentence; rewrote (f) (2); in (g) (1), substituted "a dealer" for "it shall be unlawful for any dealer" and "may not" for "to" in the introductory language, deleted "or" at the end of (i) through (iii), and substituted "to this subtitle" for "hereto" in (iv); and in (g) (2), substituted "is guilty" for "shall be guilty" and "is subject" for "shall be subject," and added "of this subtitle" at the end.

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, substituted "subsection" for "section" in (e) (3).

The 1992 amendment, approved Apr. 7, 1992, and effective from date of enactment, substituted "this section" for "this subsection" in (e) (3).

The 1994 amendment, effective Jan. 1, 1995, substitutes "30 days from the date of mailing of the notice of assessment" for "10 days after the notice of the assessment" in (d) (1).

Editor's note. Section 14, ch. 6, Acts 1988, provides that "the provisions of this act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this act."

Section 2, ch. 434, Acts 1994, provides that "notwithstanding the provisions of ' 1 of this Act, for the purposes of implementing a staggered system of renewal for certificates of number and documented vessel stickers, the Maryland Department of Natural Resources may require that up to one-half of the certificates of number and documented vessel stickers that are to be renewed following January 1, 1995 shall be renewed for 1 year. Any certificate or sticker renewed for 1 year under the provisions of this section shall be renewed in accordance with ' 1 of this Act for all subsequent renewals."

' 8-716.2. Same - Enforcement of subtitle.

Statute text

(a) In general.- For the purpose of enforcing the provisions of this subtitle, the Department or any duly authorized agent or representative:

(1) May conduct investigations and hold hearings concerning any matter covered by this subtitle at any time or place within the State of Maryland;

(2) In the conduct of any investigation or hearing, may require by subpoena or summons the attendance and testimony of witnesses and the production of any books, accounts, records, papers, and correspondence, relating to any matter which the Department is authorized by this subtitle to determine; and

(3) May sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Disobedience of subpoenas; orders; contempt.- In case of disobedience of any subpoena or

the contumacy of any witness appearing before the Department or its duly authorized agent or representative, the Department may apply to the circuit court of any of the counties or Baltimore City for an order. The circuit court may issue an order requiring the person subpoenaed to obey the subpoena or to give evidence or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey the order of court may be punished by the court as a contempt of court.

(c) Witnesses; immunity; perjury.- A person may not be excused from testifying or producing any books, papers, records, or data in any investigation or upon any hearing when ordered to do so by the Department or its duly authorized agent or representative, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate the person or subject the person to criminal penalty, but the testimony or evidence, documentary or otherwise, may not be used in any subsequent prosecution against the individual supplying the testimony or evidence. An individual so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(d) Method of making notice.- Any notice authorized or required under the provisions of this subtitle may be given by mailing the notice to the person for whom the notice is intended in a postpaid envelope addressed to the person at the address given in any application made by the person pursuant to the provisions of this subtitle. If no application has been made, notice may be given by mailing the notice to the address of the person for whom the notice is intended as may be obtainable. The mailing of the notice shall be presumptive evidence of the receipt of the notice by the person to whom the notice is addressed. Any period of time which is determined according to the provisions of this subtitle by the giving of notice shall commence to run from the date of mailing of the notice.

(e) Application for revision of tax, penalty and interest.-

(1) Any person held liable for the tax imposed by this subtitle may apply for a revision of the tax and any penalty and interest assessed against the person by the Department. An application shall be made in writing to the Department within 30 days of the date that the person was notified of the assessment by the Department. Within 30 days of the receipt of the application, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act in Title 10 of the State Government Article. Within 30 days after the hearing, the Department shall render a decision on the application for revision of the assessment of tax, penalty, and interest and so notify the applicant in writing by mail.

(2) Any person dissatisfied with the final decision of the Department upon application for revision of any assessment may obtain immediate judicial review of the decision under the provisions of the Administrative Procedure Act and the Maryland Rules.

History

[1986, ch. 828, ' 1; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1; 1998, ch. 21, ' 1.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "subtitle, the" for "subtitle the" in the introductory language of (a); substituted "matter which" for "matter, which," and added "and" at the end of (a) (2); substituted "witnesses, and" for "witnesses and" in (a) (3); substituted "the circuit court may issue" for "such court may thereupon issue" in the second sentence, and substituted "the order of court may be punished by the court as a contempt of court" for "such order of court, may be punished by such

court as a contempt thereof" in the third sentence, of (b); substituted "a person may not" for "no person shall," "the person" for "him" twice, "but the testimony" for "but no such testimony," "may not be used" for "shall be used," and "supplying the testimony or evidence" for "supplying the same" in the first sentence, and substituted "an individual so testifying is not" for "no individual so testifying shall be" in the second sentence of (c); rewrote (d); substituted "30" for "(thirty)" throughout (e) (1), substituted "the person" for "him" in the first sentence, "an application" for "such application" in the second sentence, "the application" for "such application" and deleted "of the Annotated Code of Maryland" at the end of the third sentence, and substituted "the hearing" for "such hearing" and "penalty, and" for "penalty and" in the last sentence of (e) (1); and in (e) (2), substituted "the decision" for "such decision."

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, inserted a comma following "correspondence" in (a) (2).

Chapter 21, Acts 1998, approved Apr. 14, 1998, and effective from date of enactment, substituted "Maryland Rules" for "Maryland Rules of Procedure" in (e) (2).

' 8-717. Same - Duplicate if original missing or damaged.

Statute text

(a) Application to Department; damaged certificate to be returned.- If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the Department's records within 30 days shall obtain a duplicate by applying to the Department. The applicant shall furnish information concerning the original certificate and the circumstances of its loss, mutilation, or destruction as the Department requires. Mutilated or illegible certificates shall be returned to the Department with the application for a duplicate.

(b) Marking and delivery of certificate.- The duplicate certificate of title shall be marked plainly "duplicate" across its face, and mailed or delivered to the applicant.

(c) Recovery of lost or stolen original certificate.- If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the Department for cancellation.

History

[An. Code 1957, art. 14B, ' 4M; 1973, 1st Sp. Sess., ch. 4, ' 1; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "lienholder" for "lien holder," "certificate, as" for "certificate as" and "records within 30 days shall" for "records, shall within 30 days" in the first sentence of (a).

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, inserted a comma between "certificate" and "as shown" in the first sentence of (a).

' 8-718. Same - Obtaining manufacturer's or

importer's certificate of origin.

Statute text

(a) "Certificate of origin" defined.- In this subtitle, "certificate of origin" means a certification by the manufacturer, on a form the Department approves, that:

(1) Certifies that the vessel described in the certificate has been transferred to the dealer or other person named and that the transfer of the vessel is in ordinary trade and commerce; and

(2) Describes the vessel by including:

(i) Its make, model, length, year, hull identification number, type of vessel, horsepower rating of engine, if any, and the engine number; and

(ii) Any other information that the Department requires.

(b) Manufacturer's or importer's certificate of origin required for transfer of ownership.- A manufacturer or dealer may not transfer ownership of a new vessel without supplying the transferee with the manufacturer's or importer's certificate of origin signed by the manufacturer's or importer's authorized agent. The certificate shall contain information the Department requires.

History

[An. Code 1957, art. 14B, ' 4-I; 1973, 1st Sp. Sess., ch. 4, ' 1; 1986, ch. 828, ' 1; 1987, ch. 11, ' 1; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "the certificate" for "it" in (a) (1).

' 8-719. Same - Dealer's record of vessels bought, sold, or transferred.

Statute text

Every dealer shall maintain for 3 years a record of any vessel the dealer bought, sold, exchanged, or received for sale or exchange. This record shall be open to inspection by Department representatives during reasonable business hours.

History

[An. Code 1957, art. 14B, ' 4J; 1973, 1st Sp. Sess., ch. 4, ' 1; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "3" for "three," "the dealer" for "he" and "exchanged, or" for "exchanged or" in the first sentence.

' 8-720. Same - Transfer or repossession of vessel by operation of law.

Statute text

(a) In general.- If ownership of a vessel is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within 30 days after

the transferee has acquired the right to possession of the vessel by operation of law, shall mail or deliver to the Department satisfactory proof of the transferee's ownership as the Department requires, together with his application for a new certificate of title, and the required fee. A title tax is not required on these transactions.

(b) Repossession by secured party.-

(1) The Department may transfer on its records the ownership of a vessel that has been repossessed by a secured party, if the secured party pays the fee required for transfer of a title and submits to the Department a certification that states:

(i) That the secured party has a security interest in the vessel;

(ii) That, on the basis of the security agreement or other lawful basis, the secured party has a right to the possession of and title to the vessel;

(iii) That the secured party has possession of the vessel; and

(iv) Any other information that the Department requires.

(2) A secured party that repossesses a vessel is not required to pay the title tax.

(3) On submission of the certification to it, the Department may issue a new certificate of title if it is satisfied that the secured party is entitled to one.

History

[An. Code 1957, art. 14B, ' 4K; 1973, 1st Sp. Sess., ch. 4, ' 1; 1990, ch. 6, ' 2; 1997, ch. 215.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "the transferee" for "he" and "the transferee's" for "his" in the first sentence; and in (b), substituted "a lienholder" for "a lien holder," "the vessel" for "it," and "the lienholder" for "he" twice.

The 1997 amendment, effective Jan. 31, 1998, rewrote (b).

' 8-721. Removal and disposal of abandoned vessels.

Statute text

(a) Definition of "abandoned vessel".- In this section, "abandoned vessel" means any vessel that:

(1) Is left illegally or has remained without permission for more than 30 days on public property, including public marinas, docks, or boatyards;

(2) Has remained on private property, including private marinas, docks, or boatyards, for more than 180 days without the consent of the owner or person in control of the property; or

(3) Has been found adrift or unattended in or upon the waters of the State, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard.

(b) Seizure and removal by Department.- The Department may seize, remove, and take into custody any abandoned vessel. For this purpose, the Department may use its own personnel, equipment, and facilities or use other persons, equipment, and facilities for removing, preserving, or storing abandoned vessels. The Department may not be held liable for any damage to an abandoned vessel which may occur during removal, storage, or custody of the vessel.

(c) Notice to owner and secured parties.- As soon as reasonably possible but not later than 15 days after the Department takes an abandoned vessel into custody, the Department shall send a notice, by certified mail, return receipt requested, bearing a postmark from the United States

Postal Service to the last known registered owner of the vessel and to each secured party, as shown on the records of the Department.

(d) Contents of notice.- The notice shall:

(1) Describe the vessel;

(2) Give the location where the vessel is being held;

(3) Inform the owner and secured party of a right to reclaim the vessel within 3 weeks upon payment to the Department of any expenses incurred during removal and custody of the vessel; and

(4) State that failure to claim the vessel will constitute:

(i) A waiver of all right, title, and interest in the vessel; and

(ii) A consent to the Department's disposition of the vessel.

(e) Notice by publication.- If the Department is unable to determine the last registered owner or the identity of any secured party of the abandoned vessel, or if the certified mail notice required under subsection (c) of this section is returned as undeliverable, the Department shall give the required notice by publication in at least 1 newspaper of general circulation in the area where the abandoned vessel was found. The notice by publication shall contain the information required under subsection (d) of this section and shall be published within 30 days of the seizure of the abandoned vessel, or within 15 days of the return of the certified mail notice as undeliverable.

(f) Disposal following failure to claim vessel.- If the owner or secured party fails to claim the abandoned vessel within 3 weeks after the certified mail notice or after the notice by publication is given, the Department may sell the vessel at public auction, proceed to receive title to the vessel pursuant to ' 8-722 of this subtitle, or otherwise dispose of the vessel.

(g) Disposal without notice.- If the abandoned vessel is in such a condition of disrepair that the Department cannot remove the vessel intact, the Department may dispose of the vessel in whatever manner is reasonable without providing the notice required under subsections (c) through (e) of this section.

(h) Delegation of authority.- The Department may delegate the Department's authority to remove and dispose of abandoned vessels under this section to any local jurisdiction that consents to the delegation.

History

[1985, ch. 670; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1; 1997, ch. 214.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, divided the provisions of (a) into introductory language and (a) (1) through (3); in (a), inserted a comma following "section" in the introductory language, deleted "that" at the beginning and substituted "docks, or" for "docks or" in (2), and deleted "that" at the beginning and substituted "a condition of " for "such" in (3); substituted "the Department takes" for "it takes" in (c); divided the provisions of (d) into introductory language, and (d) (1) through (4) (i) and (ii); in (d) (2), substituted "the vessel" for "it"; in (d) (4) (ii), deleted "will constitute" at the beginning; in (f), inserted "of this subtitle"; in (g), deleted "such" preceding "a condition," substituted "the vessel" for "it" twice, and added "of this section"; and in (h), substituted "the Department's" for "its."

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, inserted "such" in (g).

The 1997 amendment, effective Oct. 1, 1997, added "that consents to the delegation" to the end of (h).

Editor's note. Former ' 8-721, relating to discharge of security interest and new certificate of title, was repealed by Acts 1975, ch. 432, ' 1, effective July 1, 1975. For present provisions as to relief upon satisfaction of security interest in vessel, see ' 8-732 of this article.

' 8-721.1. Removal of vessel from marina.

Statute text

(a) In general.- The owner or operator of a marina or the owner's or operator's agent may have a vessel removed from the marina by a private person if the vessel has remained on the marina premises without permission for more than 48 hours and the owner, operator, or agent has placed in conspicuous locations signs that:

- (1) State that vessels left at the marina without permission for more than 48 hours are subject to removal at the vessel owner's expense;
- (2) State the location to which the vessel will be removed;
- (3) State that the vessel owner will be responsible for all costs associated with the removal and storage of the vessel; and
- (4) Provide the telephone number of a person who can be contacted to arrange for the reclaiming of the vessel by its owner or the owner's agent.

(b) No removal more than 30 miles from marina.- A vessel may not be removed from a marina to a location that is more than 30 miles from the marina.

(c) Reasonable attempt to notify vessel owner or owner's agent.- The owner or operator of a marina, or the agent of the owner or operator, on finding a vessel left at the marina without permission, shall make a reasonable attempt to notify the vessel owner or the vessel owner's agent of the intended removal of the vessel before the vessel may be removed under this section.

(d) Actions upon removal.- A person who removes the vessel from a marina:

(1) Shall notify the vessel owner or the vessel owner's agent at the earliest possible time after removing the vessel from the marina, and shall provide the following information:

- (i) A description of the vessel including the vessel's certificate of boat number;
- (ii) The date and time the vessel was removed;
- (iii) The reason the vessel was removed; and
- (iv) The locations from which and to which the vessel was moved;

(2) Before removing the vessel, shall have authorization of the marina owner; and

(3) May not pay any remuneration to the owner of the marina.

(e) Delivery to customarily used location.-

(1) The person who removes a vessel from a marina shall immediately deliver the vessel directly to a location customarily used by the person.

(2) The person who exercises control over the vessel at the location to which the vessel is delivered after removal from a marina shall provide the vessel owner or the vessel owner's agent immediate and continuous opportunity to retake possession of the vessel.

(f) Removal in violation of this section.- Any person who removes a vessel from a marina in violation of any provision of this section:

(1) Shall be liable for actual damages sustained by the vessel owner or the vessel owner's agent

as a result of the violation; and

(2) Shall be liable to the vessel owner or the vessel owner's agent for up to triple the amount paid by the owner or the owner's agent to retake possession of the vessel, as the court may determine.

History

[1995, ch. 342.]

Annotations

Editor's note. Section 2, ch. 342, Acts 1995, provides that "this Act may not be construed or applied to require the Department of Natural Resources to remove any vessel under the provisions of this Act, or to abrogate the provisions of ' 8-721 of the Natural Resources Article." Section 3, ch. 342, Acts 1995, provides that the act shall take effect July 1, 1995.

' 8-722. Acquiring title to abandoned vessel.

Statute text

(a) Application of section.- This section applies only to vessels apparently abandoned for over 6 months.

(b) Landowner, lessee or agent.- Subject to the provisions of this section, a landowner, a landowner's lessee, or a landowner's agent may acquire title to any vessel apparently abandoned on the landowner's land or the water immediately adjacent to the landowner's land. Acquisition of title divests any other person of any interests in the vessel.

(c) Notice of intent to apply for title; application for title; issuance of title; costs; report of subsequent destruction or disposition of vessel; acquisition of title by Department.-

(1) If a vessel has a boat number or other means of identifying the vessel's owner, the person desiring to acquire title, if possible, shall secure the owner's last known address, and the lienholder, if any, appearing on the Department's records. The person shall notify this owner and the lienholder by registered letter to the last known address that, if ownership is not claimed and the vessel removed within 30 days, the person will apply for title to the vessel in the person's name. If any vessel's owner or lienholder cannot be identified or address ascertained from the Department's records, it is not necessary to send the letter.

(2) The person desiring to acquire title also shall place a notice in a newspaper of general circulation published in the county where the vessel is located, describing the vessel, the vessel's location, and any identifying number. The person shall state in the notice that, if the vessel is not claimed and removed within 30 days after the publication date of the paper, the person will apply for title to the vessel in the person's name.

(3) At the end of the 30-day period the person shall apply to the Department for title to the vessel in the person's name on forms the Department approves accompanied by the following affidavits:

(i) A statement that the vessel apparently has been abandoned for at least 6 months;

(ii) Proof the registered letter was mailed at least 30 days before application or a detailed explanation of the unsuccessful steps taken to identify the owner or lienholder and secure the owner's or lienholder's address; and

(iii) Proof a notice was printed in a newspaper as required in paragraph (2) of this subsection.

(4) Upon receipt of the material required in paragraph (3) of this subsection and payment of any fees and taxes due, the Department shall issue title to the vessel to the applicant.

(5) The applicant shall bear any cost incurred in receiving title to a vessel under this section.

(6) After receiving title, if the applicant destroys or otherwise disposes of the vessel, the applicant shall report this information to the Department within 15 days giving every detail.

(7) The Department may receive title to any vessel apparently abandoned on the waters of the State or on any land owned by the State or any political subdivisions by proceeding in the same manner a property owner does as set forth in this section.

(d) Obtaining title through fraudulent means.- A person may not obtain or attempt to obtain title to a vessel under the provisions of this section through any fraudulent means.

History

[An. Code 1957, art. 14B, ' 4P; 1973, 1st Sp. Sess., ch. 4, ' 1; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1; 1996, ch. 10, ' 1.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "6" for "six" in (a); rewrote (b); in (c) (1), substituted "the vessel's" for "its" in the first sentence, substituted "the person" for "he" twice, "lienholder" for "lien holder," "that, if " for "that if," and "the person's" for "his" in the second sentence, and substituted "lienholder" for "lien holder" in the last sentence; in (c) (2), substituted "the vessel's" for "its" in the first sentence, and substituted "that, if " for "that if," "the person will" for "he will," and "the person's" for "his" in the last sentence; in (c) (3), substituted "the person's" for "his" in the introductory language, "6" for "six" in (i), "lienholder" for "lien holder" and "the owner's or lienholder's" for "his" in (ii), and added "of this subsection" in (iii); in (c) (4), substituted "paragraph (2) of this subsection" for "subsection (c) (2)"; and in (c) (6), substituted "the applicant shall" for "he shall."

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, reenacted (c) (2) and (c) (3) without change; and substituted "paragraph (3)" for "paragraph (2)" in (c) (4). The 1996 amendment, approved Apr. 9, 1996, and effective from date of enactment, substituted "newspaper" for "paper" in the first sentence of (c) (2) and in (c) (3) (iii); and inserted "that" in (c) (3) (i).

' 8-723. Disposition and use of fees and other revenues by Department.

Statute text

(a) Deposit of fees and other revenues.- Any fee and other revenue the Department collects under authority of this subtitle, and any other available income, shall be deposited in the State treasury and used exclusively for the administration, functions, and objectives of this subtitle. These funds are credited to the Department.

(b) Use of funds.- The Department may use the funds credited to its accounts to purchase, rent, and operate any equipment necessary to accomplish the purposes of this subtitle, within budgetary limitations.

(c) Employment of necessary personnel.- Subject to available income, the Department may employ necessary personnel subject to the provisions of the State Personnel and Pensions Article.

(d) Agreements to share cost of waterway projects.- Within the limits of funds available, the Department may enter into any agreement with the federal government, any municipality or other

political subdivision of the State, or any private agency to share the cost of any development, construction, or improvement of waterways or of facilities determined to have beneficial value to the boating public.

History

[An. Code 1957, art. 14B, ' 7; 1973, 1st Sp. Sess., ch. 4, ' 1; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1; 1993, ch. 22, ' 1; 1995, ch. 3, ' 1; 1997, ch. 743.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (d), substituted "waterways, or" for "waterways or."

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, inserted "of" preceding "facilities" in (d).

The 1993 amendment, effective Oct. 1, 1993, substituted "provisions of . . . employees" for "State merit system" in (c).

The 1995 amendment, approved Mar. 7, 1995, and effective from date of enactment, substituted "State Personnel and Pensions Article" for "State Personnel Article" in (c).

The 1997 amendment, effective Oct. 1, 1997, deleted "that govern classified service employees" following "State Personnel and Pensions Article" in (c).

Editor's note. Section 3, ch. 22, Acts 1993, provides that "this Act is not intended to change the status as of October 1, 1993 of any employee, official, or position from the State Personnel Management System or any other personnel system to a different personnel system, from the unclassified service to the classified service, from the classified service to the unclassified service, or otherwise from one employment status to a different employment status."

Section 4 of ch. 22 provides that "except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before October 1, 1993 and every right, duty, or interest flowing from the statute, remains valid after October 1, 1993 and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If the change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit."

' 8-724. Boating accidents.

Statute text

(a) Duty to render assistance and give information.- The operator of a vessel involved in a collision, accident, or other casualty shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save the persons from danger caused by the collision, accident, or casualty, to the extent the operator can do so without serious danger to the operator's own vessel, or persons aboard. The operator also shall give the operator's name, address, and the identification of the operator's vessel to any person injured and to the owner of any property damaged. The duties imposed by this subsection are in addition to any duties otherwise imposed by law.

(b) Accident reports - Accident on waters of the State; time for making.- If an accident involves

any vessel subject to this subtitle while on the waters of the State and results in the death, disappearance, or injury of any person or in property damage in excess of \$500, or there is complete loss of the vessel, the operator or owner, if the operator cannot submit a report, shall file with the Department a full description of the accident, including any information the Department requires by regulation. If the accident caused the death or disappearance of any person or a person receives medical treatment beyond first aid, the report shall be made within 48 hours. Any other accident resulting in personal injury or property damage shall be reported within 10 days. This subsection does not apply to a vessel required to have a certificate of inspection under Chapter 1, Title 46, Code of Federal Regulations.

(c) Same - Accident on waters other than waters of State; time for making.- If any vessel numbered in the State is involved in an accident on waters outside of the State, and the accident results in the death, disappearance, or injury of any person or in property damage exceeding \$500, the operator or owner, within 30 days, shall file a complete report with the Department including any information the Department requires by regulation. This subsection does not exempt or excuse any operator or owner, if the operator cannot submit the report, from the requirements of any federal or other State law or rule or regulation having jurisdiction over the waters in which the accident occurs. Furthermore, any accident-reporting requirement in the federal or other State law or rule or regulation may not exonerate or excuse any failure of the operator or owner of a vessel numbered in the State to report the accident in the State.

(d) Same - Inadmissibility of accident report in judicial proceeding; use by U.S. Coast Guard.- The required report of a boating accident may not be referred to during any judicial proceeding. It is not subject to subpoena or admissible as evidence in any proceeding. Subject to these restrictions, information contained in a boating accident report and any statistical information based on the report is available on request for official purposes to the United States Coast Guard and its successor agency.

(e) Person rendering assistance not liable.- Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders or attempts to render assistance to any vessel in distress on any of the waters of the State without objection from any person assisted, is not liable for any civil damage as the result of any act or omission by the person in rendering assistance, if the act or omission does not amount to gross negligence.

History

[An. Code 1957, art. 14B, ' ' 9, 14; 1973, 1st Sp. Sess., ch. 4, ' 1; 1981, ch. 4; 1990, ch. 6, ' 2; 1994, ch. 16.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), rewrote the first and second sentences; substituted "person or" for "person, or" and deleted "rule or" preceding "regulation" in the first sentence of (b) and (c); substituted "owner, or" for "owner or" in the second sentence of (c); substituted "the report" for "it" in the last sentence of (d); and substituted "the person" for "him" in (e).

The 1994 amendment, effective Oct. 1, 1994, substituted "\$500" for "\$200" in (b) and (c).

Cited in Allen v. State, 39 Md. App. 686, 389 A.2d 909, 283 Md. 729 (1978).

' 8-725. Waterskiing restrictions.

Statute text

(a) Applicability of section.- This section does not apply to:

(1) Any performer engaged in a professional exhibition; or

(2) Any person taking part in:

(i) An authorized regatta, motorboat race, or other boat race; or

(ii) Any marine parade, tournament, or exhibition.

(b) Towing on water skis, aquaplane, etc., prohibited.- A person may not operate any machinery-propelled vessel for the purpose of towing a person on or attached to water skis, an aquaplane, a parasail, or similar device unless the vessel operator is at least 12 years old and another person, at least 12 years old, is in the vessel to observe the progress of the person being towed. Towing may not occur between sunset and sunrise.

(c) Personal flotation devices.-

(1) In this subsection, "personal flotation device" includes:

(i) A life jacket;

(ii) A life vest;

(iii) A life preserver;

(iv) A barefoot wet suit; or

(v) A trick skiing wet suit.

(2) A person who is in or over the waters of the State and is being towed behind a vessel must wear a personal flotation device.

History

[An. Code 1957, art. 14B, ' 11; 1973, 1st Sp. Sess., ch. 4, ' 1; 1986, ch. 415; 1990, ch. 28, ' 2; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. The 1990 amendment, effective July 1, 1990, in (b), inserted "or attached to" and "parasail" in the first sentence; and in (c), inserted "or over" in (2).

The 1991 amendment, approved Apr. 9, 1991, and effective from date of passage, in (b), inserted "an" preceding "aquaplane" and inserted "a" preceding "parasail."

' 8-725.1. Abandonment of vessel.

Statute text

(a) General prohibition.- A person may not abandon, as defined in ' 8-721 of this subtitle, any vessel upon any waters of the State.

(b) Prima facie owner of vessel.- The last known registered owner shown on the certificate of title issued under ' 8-715 of this subtitle shall be considered:

(1) The prima facie owner of a vessel at the time the vessel was abandoned; and

(2) The person who abandoned the vessel.

(c) Violation.-

(1) Any person who violates any provision of this section is guilty of a misdemeanor. Upon conviction, the person is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months, or both.

(2) Any person found guilty of a second or subsequent violation of any provision of this section

is subject to a fine not exceeding \$2,000 or imprisonment not exceeding 1 year, or both.

(3) Any person who violates any provision of this section is liable to the State for the cost of removal of the vessel.

(4) The provisions of this section do not apply to a vessel wrecked through an act of God or negligence of a third party.

History

[1977, ch. 511; 1985, ch. 670; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, divided the provisions of (b) into introductory language and (b) (1) and (2); inserted "of this subtitle" in (a) and in the introductory language of (b); substituted "the vessel" for "it" in (b) (1) and (2); and in (c), substituted "6" for "six" in (1), and "1" for "one" in (2).

' 8-725.2. Comprehensive management plan for use of vessels on Severn River.

Statute text

(a) In general.- The Department shall:

(1) Develop a comprehensive management plan for the use of vessels on the Severn River and its tributaries in accordance with the Administrative Procedure Act under Title 10 of the State Government Article; and

(2) Implement the comprehensive management plan no later than April 15, 1990.

(b) Content.- The comprehensive management plan for the use of vessels on the Severn River and its tributaries shall include, but not necessarily be limited to:

(1) Areas designated for specified uses;

(2) Noise level limits of vessels;

(3) Maximum speed limits of vessels;

(4) Other limits that address water surface capacity and the safe operation of vessels so as to maximize the recreational and aesthetic values of the Severn River and its tributaries, consistent with sound environmental practices; and

(5) A study of seaplane activity on the Severn River and its tributaries.

(c) Effect of section.- This section may not be construed to change the authority previously granted to the Department to adopt regulations concerning the subject matter of this section.

History

[1989, ch. 585.]

Annotations

Editor's note. Chapter 585, Acts 1989, approved May 25, 1989, was effective from date of passage.

' 8-725.3. Speed limits on Severn River; penalties.

Statute text

(a) Speed limits; application.- A person may not operate any vessel on the Severn River from

April 15, 1989 to October 15, 1989 in excess of 40 miles per hour during the following days and times:

(1) A Saturday;

(2) A Sunday;

(3) A State holiday; and

(4) Any other day from sundown to sunrise.

(b) Violation as misdemeanor; penalty.-

(1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(i) For the first offense, \$500; and

(ii) For the second offense, \$1,000 or imprisonment not exceeding 30 days or both.

(2) Paragraph (1) of this subsection does not limit or supersede any other penalty that may be imposed under this subtitle for a violation of any other law or regulation adopted under this subtitle.

(c) Effect of section.- This section may not be construed to affect the Department's authority:

(1) To adopt regulations concerning the subject matter of this section; or

(2) To set speed limits on creeks, bays, coves, and tributaries of the Severn River.

(d) Informational program.- The Department shall develop an informational program to assist boaters in complying with the speed limits imposed by this section, including public education, a phase-in period for enforcement, and information to assist boaters in converting tachometer or knot meter readings to speedometer readings in miles per hour.

History

[1989, ch. 585.]

Annotations

Editor's note. Chapter 585, Acts 1989, approved May 25, 1989, was effective from date of passage.

' 8-725.4. Noise levels for vessels operated in tidal waters.

Statute text

(a) Applicability.- The provisions of this section do not apply to persons who regularly catch or harvest seafood for sale while actually engaged in the catching or harvesting of the seafood.

(b) Permitted noise levels.-

(1) Except as provided in subsection (d) of this section, a person may not operate a vessel on the waters of the State so as to exceed a noise level of 90dB(a).

(2) Noise level limits for waters of the State shall be measured using generally accepted testing procedures imposed by regulations adopted by the Department based on the Marine Environment Sound Level Measurement Procedure, SAE J 2005.

(3) An owner or lessee of a vessel may not allow the vessel to be operated on waters of the State in violation of paragraph (1) of this subsection.

(c) Muffling devices or systems.- A person may not own or operate on any waters of the State any vessel manufactured after January 1, 1990 that is not equipped with a muffler or device or

system which muffles or suppresses engine noise in accordance with regulations adopted by the Department.

(d) Regulations - Exceptions.- The Department may adopt regulations to permit exceptions to this section, including exceptions for:

- (1) Economic hardship;
- (2) Vessels participating or preparing to participate in a U.S. Coast Guard or Department approved race or event;
- (3) The testing, repair, or development of vessel engines conducted by a bona fide engine or boat manufacturer or service person; and
- (4) Vessels belonging to a volunteer fire department, ambulance company, rescue squad company, or advance life support company or a political subdivision.

(e) Same - Enforcement.- In addition to the provisions of subsection (b) of this section, the Department may adopt regulations to enforce this section, including regulations establishing noise limitations.

(f) Violations; penalties.-

(1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

- (i) For the first offense, \$500; and
- (ii) For the second offense, \$1,000 or imprisonment of 30 days or both.

(2) Paragraph (1) of this subsection does not limit or supersede any other penalty that may be imposed under this subtitle for a violation of any other law or regulation adopted under this subtitle.

(g) Compliance with Administrative Procedure Act.- All regulations adopted by the Department under this section shall be in accordance with the Administrative Procedure Act under Title 10 of the State Government Article.

History

[1989, ch. 720; 1994, ch. 502; 1995, ch. 3, ' 1; 1996, ch. 501.]

Annotations

Effect of amendments. The 1994 amendment, effective Oct. 1, 1994, inserted present (b) (2) and redesignated former (b) (2) as (b) (3); in present (b) (3), deleted "the tidal" preceding "waters of the State" and substituted "paragraphs (1) and (2)" for "paragraph (1)"; substituted "any" for "the tidal" in (c); and added (d) (4).

The 1995 amendment, approved Mar. 7, 1995, and effective from date of enactment, substituted "dB(a)" for "db(a)" in (b) (1), (2) (i) 1 and 2.

The 1996 amendment, effective June 1, 1996, rewrote (b).

Editor's note. Chapter 720, Acts 1989, designated this section as ' 8-725.2, but since ' ' 8-725.2 and 8-725.3 had been previously added by ch. 585, Acts 1989, the section added by ch. 720, Acts 1989, has been redesignated as ' 8-725.4 herein.

Section 2 of ch. 720 provides that the act shall take effect Jan. 1, 1990.

' 8-726. Throwing or dumping refuse on waters of State.

Statute text

- (a) A person may not throw, dump, deposit, or cause to be thrown, dumped, or deposited any trash, junk, or other refuse on any waters of the State.
- (b) The operator or owner, if present, of any vessel on which occurs a violation of subsection (a) of this section is liable.
- (c) The Department shall enforce the provisions of this section.

History

[An. Code 1957, art. 14B, ' 12; 1973, 1st Sp. Sess., ch. 4, ' 1; 1975, ch. 444.]

Annotations

Subtitle authorizes State marine police to stop and search vessels. - The State Boat Act authorizes, to the limits allowed by the Fourth Amendment, the State marine police to stop and search in State waters a vessel suspected of illegal activity and to assist federal authorities in making such a stop and search. *Blair v. United States*, 665 F.2d 500 (4th Cir. 1981).

' 8-727. Enforcement of subtitle by officers; use of visual or audible signals.

Statute text

- (a) Definitions.-
 - (1) In this section the following words have the meanings indicated.
 - (2) "Elude" means to evade a police officer's visual or audible signal to stop by:
 - (i) Willfully failing to stop the vessel;
 - (ii) Fleeing on foot; or
 - (iii) Any other means.
 - (3) "Police officer" means an officer who is:
 - (i) In uniform, prominently displaying the officer's badge or other insignia of office; or
 - (ii) In a vessel that is appropriately marked as an official law enforcement vessel, whether or not the officer is in uniform.
 - (4) "Visual or audible signal" means a warning or command by hand, voice, emergency light, signal device, or siren.
- (b) Authority of officers generally.- A Natural Resources police officer or any law enforcement officer enforcing the provisions of this subtitle may stop, board, or inspect any vessel subject to this subtitle.
- (c) Use of flashing blue lights or signal devices.-
 - (1) Except as provided in paragraph (2) of this subsection, an individual who is on a vessel may not display or operate a flashing blue light or signal device.
 - (2) A police officer who is on a vessel of a county, municipal, State, or federal law enforcement agency may display and operate flashing blue lights or signal devices while responding to or at the scene of an emergency or pursuing a violator or suspected violator of the law.
- (d) Operator's duty to yield right-of-way or stop vessel.- On the immediate approach of a law enforcement vessel lawfully using a flashing blue light or signal device, an operator of another vessel, unless otherwise directed by a police officer, shall:
 - (1) Yield the right-of-way; and

- (2) Stop the vessel and stay in that position until the law enforcement vessel has passed.
- (e) Attempt to elude officer prohibited.- An operator of a vessel may not elude or attempt to elude a police officer who gives a visual or audible signal to the operator to stop.
- (f) Penalties for violations.-
 - (1) A person who violates subsection (c) or (d) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.
 - (2) A person who violates subsection (e) of this section is guilty of a misdemeanor and on conviction:
 - (i) For a first offense, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both; and
 - (ii) For a subsequent offense, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 2 years or both.

History

[An. Code 1957, art. 14B, ' 12; 1973, 1st Sp. Sess., ch. 4, ' 1; 1991, ch. 275.]

Annotations

Effect of amendments. The 1991 amendment, effective July 1, 1991, added (a), designated the former provisions of the section as (b), and added (c) through (f).

University of Baltimore Law Review. For note discussing the constitutionality of random and suspicionless boarding of vessel, see 14 U. Balt. L. Rev. 160 (1984).

' 8-727.1. Use of flashing red and yellow lights or signal devices; emergency vessels.

Statute text

- (a) "Public safety activity" defined.-
 - (1) In this section "public safety activity" includes:
 - (i) Patrolling a marine parade, regatta, or special water celebration;
 - (ii) Traffic control;
 - (iii) Salvage;
 - (iv) Fire fighting;
 - (v) Medical assistance;
 - (vi) Assisting a disabled vessel; and
 - (vii) Search and rescue.
 - (2) "Public safety activity" does not include routine towing.
- (b) Use prohibited.- Except as provided in subsection (c) of this section, an individual who is on a vessel may not display or operate a flashing, alternating red and yellow light or signal device.
- (c) Display of signal; location; right-of-way.-
 - (1) An individual who is on a vessel engaged in a government sanctioned public safety activity or a commercial vessel performing a public safety activity may display an alternately flashing red and yellow light signal.
 - (2) The public safety identification light signal shall be located so that it does not interfere with the visibility of the vessel's navigation lights.
 - (3) The public safety identification light signal may be used only as an identification light signal

and does not convey any special privilege to the vessel displaying the light signal.

(4) An individual on a vessel using the public safety identification light signal during public safety activities shall comply with the Inland Navigation Rules adopted by the United States Coast Guard and may not presume that the light or the activity gives the vessel precedence or right-of-way.

(d) Penalty for violation.- A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

History

[1991, ch. 275; 1993, ch. 216.]

Annotations

Effect of amendments. The 1993 amendment, effective June 1, 1993, added (a) and redesignated former (a) as (b); in present (b), substituted "subsection (c)" for "subsection (b)"; and rewrote (c).

Editor's note. Section 2, ch. 275, Acts 1991, provides that the act shall take effect July 1, 1991.

' 8-728. Security interest in vessels - Exemptions from ' ' 8-729 to 8-736 of this article.

Statute text

Sections 8-729 through 8-736 of this subtitle do not apply to or affect:

- (1) A lien given by statute or rule of law to a supplier of services or materials for the vessel;
- (2) A lien given by statute to the United States, the State, or any political subdivision of the State;
- (3) A security interest in a vessel created by a manufacturer or dealer who holds the vessel for sale, but a buyer in the ordinary course of trade from the manufacturer or dealer takes free of the security interest;
- (4) Any lien arising out of an attachment of a vessel;
- (5) Any security interest claimed on proceeds, as defined in ' 9-306 (1) of the Commercial Law Article, if the original security interest did not have to be noted on the certificate of title in order to be perfected; or
- (6) Any vessel for which a certificate of title is not required under this subtitle.

History

[1975, ch. 432, ' 2; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, inserted "of this subtitle" in the introductory language; and substituted "the State" for "this State" twice in (2).

' 8-729. Same - Perfection generally.

Statute text

(a) Unless excepted by ' 8-728 of this subtitle, a security interest in a vessel is not valid against creditors of the owner or subsequent transferees or secured parties of the vessel unless perfected as provided under ' ' 8-729 through 8-732 of this subtitle.

(b) A security interest is perfected by the delivery to the Department of the existing certificate of

title, if any, and an application for certificate of title on a form provided or approved by the Department containing information regarding the security interest, and upon payment of a filing fee of \$15. Four dollars of this filing fee shall be treated as described in ' 8-723 of this subtitle. The security interest is perfected as of the time of its creation if delivery and payment to the Department are completed within 30 days of the date of its creation, otherwise perfection is as of the time of its delivery and payment.

(c) If a vessel is already subject to a security interest when the vessel is brought into the State, the validity of the security interest in the State is to be determined by the law (including the conflict of law rules) of the jurisdiction where the vessel was when the security interest attached, subject to the following:

(1) If the parties to the transaction understood at the time the security interest attached that the vessel would be kept in the State, and the vessel was brought into the State within 30 days after the security interest attached for purposes other than transportation through the State, the validity of the security interest in the State is to be determined by the law of the State.

(2) If the security interest was perfected already under the laws of the jurisdiction where the vessel was when the security interest attached and before being brought into the State:

(i) If the name of the secured party is shown on an existing certificate of title issued by that jurisdiction, the security interest continues perfected in the State.

(ii) If the name of the secured party is not shown on an existing certificate of title issued by that jurisdiction, and if the law of that jurisdiction does not provide for certificates of title disclosing security interests, the security interest continues perfected in the State for 4 months and, after that time, if within the 4-month period the security interest is perfected in the State. This security interest may also be perfected in the State after the expiration of the 4-month period, in which case perfection dates from the time of perfection in the State.

(iii) If the security interest was not perfected under the law of the jurisdiction in which the vessel was when the security interest attached before being brought into the State, the security interest may be perfected in the State; in which case perfection dates from the time of perfection in the State.

(d) Five dollars of this filing fee, which is in lieu of a recordation tax imposed under Title 12 of the Tax-Property Article, shall be deposited in a special fund which is created. These moneys shall be used for the benefit of the counties of the State, and Baltimore City, and distribution of this fund shall be made to the several counties and Baltimore City annually on the basis of the residence of the purchasers of the vessels.

(e) Six dollars of every fee received under the provisions of ' 8-730 of this subtitle shall be deposited in the General Fund.

History

[1975, ch. 432, ' 2; 1985, ch. 480, ' 1; 1988, ch. 741; 1990, ch. 6, ' 2; ch. 515, ' 2; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, substituted "30 days" for "ten days" in subsection (b).

Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of passage, inserted "of this subtitle" in (a), (b) and (e); substituted "four dollars" for "\$4" in the second sentence of (b); substituted "the State" for "this State" throughout (c); substituted "the vessel is" for "it is" in the

introductory language of (c); substituted "the vessel was" for "it was" in (c) (1); substituted "4" for "four" throughout (c) (2) (ii), substituted "jurisdiction, and" for "jurisdiction and," "after that time" for "thereafter" and "the security interest is" for "it is" in the first sentence of (c) (2) (ii); substituted "the security interest was" for "it was" in (c) (2) (iii); substituted "five dollars" for "\$5" and "Article, shall" for "Article shall" in (d); and substituted "six dollars" for "\$6" in (e). Chapter 515, Acts 1990, rewrote (e).

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, deleted "also" following "4 months and" in (c) (2) (ii).

Editor's note. Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

Section 6, ch. 515, Acts 1990, provides that "the passage of this Act is contingent on the passage of either Chapter ____ (S.B. 842) (0lr2980) or (H.B. 1367) (0lr2452) of the Acts of the General Assembly of 1990, a Constitutional Amendment, and its ratification by the voters of this State." Senate Bill 842 was enacted as ch. 62, Acts 1990 and was ratified by the voters at the November, 1990 general election; House Bill 1367 failed of enactment.

Section 7 of ch. 515 provides that "except for ' 2 of this Act, this Act is not effective until rules are adopted by the Court of Appeals or July 1, 1991, whichever is sooner."

Section 8 of ch. 515 provides that "subject to the provisions of ' 6 above, ' 2 of this Act shall take effect July 1, 1991."

Section 9 of ch. 515 provides that "subject to the provisions of ' ' 6, 7, and 8 above, this Act shall take effect July 1, 1990."

' 8-730. Same - Execution of application; time when perfected; endorsement of certificate.

Statute text

(a) The provisions of this section apply if an owner creates a security interest in a vessel.

(b) The owner immediately shall execute the application in the space provided on the certificate of title or a separate form the Department prescribes, naming the secured party on the certificate of title, showing the name and address of the secured party, the amount of the security interest, and the date of the security agreement, and cause the certificate of title and application to be delivered to the Department.

(c) At the time of delivery of the documents described in subsection (b) of this section to the Department, the secured party shall pay to the Department a filing fee as required for perfection of the security interest under ' 8-729 (b) of this subtitle. The security interest is perfected as of the time of its creation if delivery and payment to the Department are completed within 30 days of the date of its creation, otherwise perfection shall be as of the time of its delivery and payment.

(d) Upon receipt of the certificate of title, application, and the required filing fee, the Department shall endorse on the existing certificate of title or on a new certificate, which the Department then issues, the name and address of all secured parties and mail or deliver the certificate of title to the owner of the vessel.

History

[1975, ch. 432, ' 2; 1988, ch. 741; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, substituted "30 days" for "ten days" in paragraph (2), and "owner of the vessel" for "secured party" in paragraph (3).

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, designated the former introductory language as (a) and redesignated former (1) through (3) as present (b) through (d); in (a), inserted "the provisions of this section apply" and substituted a period for a semicolon at the end; in (b), substituted "the security" for "his security"; in (c), substituted "subsection (b)" for "paragraph (1)" and inserted "of this subtitle" in the first sentence; and in (d), substituted "certificate, which the Department" for "certificate which it" and "parties and" for "parties, and."

' 8-731. Same - Assignability.

Statute text

(a) A secured party may assign, absolutely or otherwise, all or part of the secured party's security interest in the vessel to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as secured party until the assignee is named as secured party on the certificate of title.

(b) The assignee shall deliver to the Department the certificate of title if available and an assignment by the secured party named in the certificate of title in the form the Department may prescribe accompanied by a filing fee as required for perfection of the security interest under ' 8-729 (b) of this subtitle. The assignee's security interest is perfected as of the time of its creation if delivery and payment to the Department are completed within 10 days of the date of its creation; otherwise, the assignee's security interest is perfected as of the time the assignee delivers the certificate and payment to the Department.

History

[1975, ch. 432, ' 2; 1990, ch. 6, ' 2; 1991, ch. 55, ' 1.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "the secured party's" for "his"; and in (b), inserted "of this subtitle" in the first sentence, and substituted "10" for "ten" and "creation;" for "creation," and inserted "determined" in the second sentence.

The 1991 amendment, approved Apr. 9, 1991, and effective from date of enactment, in (b), substituted "the assignee's security interest is perfected" for "perfection is determined," substituted "the assignee delivers the certificate" for "of its delivery," and added "to the Department" at the end.

' 8-732. Same - Relief upon satisfaction.

Statute text

(a) Upon the satisfaction of a security interest in a vessel, the secured party shall release the security interest in whatever form as may be prescribed by or acceptable to the Department, and within 15 days mail or deliver the signed and dated release of security interest to the owner and a copy of the release to the Department. The Department shall correct its records and, upon request of the owner and the receipt by the Department of the certificate of title with the release of security interest, the Department may issue a new certificate of title to the owner.

(b) If the Department determines after a hearing and following due notice to all parties interested that an indebtedness does not constitute a security interest, the Department shall release the indebtedness upon the certificate of title or issue a new certificate of title, and mail or deliver the certificate of title to the owner. Any person aggrieved by the decision of the Department may appeal in accordance with the provisions of the Administrative Procedure Act.

History

[1975, ch. 432, ' 2; 1983, ch. 8; 1988, ch. 741; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1988 amendment, effective July 1, 1988, substituted "release the security interest" for "securely attach to the certificate of title a release of security interest", "signed and dated release of security interest" for "certificate of title with attached release" and "with the release of security interest" for "with attached release" in subsection (a).

The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, in (a), substituted "vessel, the" for "vessel" in the first sentence; and in (b), substituted "the Department shall" for "it shall" in the first sentence.

' 8-733. Same - Adoption of regulations.

Statute text

The Department shall adopt the necessary regulations to implement the provisions of ' ' 8-729 through 8-732 of this subtitle.

History

[1975, ch. 432, ' 2; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, deleted "rules and" preceding "regulations" and inserted "of this subtitle."

' 8-734. Same - Disclosure of information.

Statute text

A secured party named in a certificate of title, on written request of the owner, shall disclose any pertinent information as to the security agreement and the indebtedness secured by the security agreement in accordance with ' 9-208 of the Commercial Law Article.

History

[1975, ch. 432, ' 2; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "the security agreement" for "it" and "' 9-208 of" for "' 9-208, of."

' 8-735. Same - Exclusive method.

Statute text

The method provided in ' ' 8-729 through 8-736 of this subtitle of perfecting and giving notice of security interests is exclusive.

History

[1975, ch. 432, ' 2; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, inserted "of this subtitle."

' 8-736. Same - Forms; investigations.

Statute text

(a) The Department shall prescribe and provide suitable forms of applications, certificates of title, notices of security interests, and all other notices and forms necessary to carry out ' ' 8-729 through 8-736 of this subtitle.

(b) The Department may make necessary investigations to procure information required to carry out ' ' 8-729 through 8-736 of this subtitle.

History

[1975, ch. 432, ' 2; 1983, ch. 8; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, added "of this subtitle" in (a) and (b).

' 8-737. Historical watercraft identification plaque.

Statute text

(a) Qualifications for plaque.- A person may obtain a historical watercraft identification plaque from the Department for a boat that is:

(1) 25 years old or older; and

(2) Powered by the boat's original type of power plant.

(b) Fee; period of validity.- The fee for a historical watercraft identification plaque is \$25. The identification plaque shall be valid for the life of the boat.

(c) Issuance; design; rights conferred.- The Department shall issue a historical watercraft identification plaque, of the Department's own design, to a person who applies to the Department on a form the Department supplies. When prominently displayed on the boat, a historical watercraft identification plaque shall entitle the boat owner to apply to participate in parades, shows, and special displays. The historical watercraft identification plaque may not qualify a boat for general recreational use.

History

[1979, ch. 416; 1990, ch. 6, ' 2.]

Annotations

Effect of amendments. The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "the Department's" for "its" and "the Department supplies" for "it supplies" in the first sentence of (c).

' 8-738. Operating vessel while intoxicated or while under influence of alcohol and/or drugs.

Statute text

(a) Prohibitions enumerated.- A person may not operate or attempt to operate a vessel while the person:

- (1) Is intoxicated;
- (2) Is under the influence of alcohol;
- (3) Is so far under the influence of any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely; or
- (4) Is under the influence of any controlled dangerous substance, as defined in Article 27, ' 277 of the Code, unless the person is entitled to use the controlled dangerous substance under the laws of the State.

(b) Evidentiary requirements applicable.- The evidentiary requirements of ' ' 10-302 through 10-307 of the Courts Article are applicable to any violation of this section.

(c) Defense.- It is not a defense to a charge of violating subsection (a) (3) of this section that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of 1 or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely operating a vessel.

(d) Penalties.-

(1) Notwithstanding any other provision of this title, a person who violates paragraph (1) of subsection (a) of this section is guilty of a misdemeanor and upon conviction:

- (i) For a first offense, shall be subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year or both;
- (ii) For a second offense, shall be subject to a fine of not more than \$2,000 or imprisonment for not more than 2 years or both; and
- (iii) For a third or subsequent offense, shall be subject to a fine of not more than \$3,000 or imprisonment for not more than 3 years or both.

(2) Notwithstanding any other provision of this title, a person who violates paragraph (2), (3), or (4) of subsection (a) of this section is guilty of a misdemeanor and upon conviction:

- (i) For a first offense, shall be subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both; and
- (ii) For a second or subsequent offense, shall be subject to a fine of not more than \$1,000 or imprisonment of not more than 1 year or both.

(e) Lesser included offenses.- If a person is charged with a violation of this section, the court may find the person guilty of any lesser included offense under any subsection of this section.

History

[1983, ch. 575; 1990, ch. 6, ' 2; ch. 336; 1995, ch. 545.]

Annotations

Effect of amendments. Chapter 6, Acts 1990, approved Feb. 16, 1990, and effective from date of passage, substituted "the State" for "this State" in (a) (4) and (c).

Chapter 336, Acts 1990, effective July 1, 1990, rewrote (c) and added (d).

The 1995 amendment, effective Oct. 1, 1995, inserted "one or more" in (a) (3); and added (e).

Editor's note. Section 17, ch. 6, Acts 1990, provides that "except for ' 3 of this Act, the provisions of this Act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act."

University of Baltimore Law Review. For note discussing the constitutionality of random and suspicionless boarding of vessel, see 14 U. Balt. L. Rev. 160 (1984).

' 8-739. Penalties for violations of ' 8-712, ' 8-712.1, ' 8-712.3, ' 8-713, ' 8-716.1 or ' 8-718.

Statute text

(a) Section 8-712, ' 8-712.1, ' 8-712.3, ' 8-713 or ' 8-718.- Any person who violates any provision of ' 8-712, ' 8-712.1, ' 8-712.3, ' 8-713, or ' 8-718 of this subtitle is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding \$500; and

(2) For any subsequent offense that occurs within 2 years of a prior violation, a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both.

(b) Section 8-716.1 - Any person who violates ' 8-716.1 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years, or both.

History

[1984, ch. 589; 1986, ch. 828, ' 1; 1987, ch. 126, ' 7; 1998, ch. 9.]

Annotations

Effect of amendments. Chapter 9, Acts 1998, effective Oct. 1, 1998, inserted "' 8-712.3" in the introductory language of (a).

' 8-740. Safety equipment violations.

Statute text

(a) Punishment for 2 violations.- If a person is convicted of 2 boating violations concerning the operation of, or safety equipment on, a vessel within a 2-year period of time, the person is required, as a condition of probation or sentencing, to complete successfully a boating safety education course that is offered or approved by the Department.

(b) When boating safety education course required.- Notwithstanding the provisions of subsection (a) of this section, if a person is convicted of any of the following boating safety

violations in the operation of a vessel, the person is required, as a condition of probation or sentencing, to successfully complete a boating safety education course that is offered or approved by the Department:

- (1) Negligent operation;
 - (2) Reckless operation; or
 - (3) Operating under the influence of alcohol, any drug, combination of drugs, or combination of drugs and alcohol, in violation of ' 8-738 of this subtitle.
- (c) Education course requirement additional to other punishment.- The requirement to take and successfully complete the boating safety education course under subsections (a) and (b) of this section is in addition to any other punishment that a judge imposes for violation of the boating laws or regulations of the State.

History

[1987, ch. 640; 1988, ch. 6, ' 1; 1990, ch. 6, ' 2; 1998, ch. 9.]

Annotations

Effect of amendments. The 1988 amendment, approved Feb. 18, 1988, and effective from date of passage, inserted a comma following "drugs and alcohol" near the end of subsection (b) (3). The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, inserted "the provisions of" in the introductory language of (b).

Chapter 9, Acts 1998, effective Oct. 1, 1998, reenacted the section without change.

' 8-741. Marine sanitation device.

Statute text

(a) Definitions.-

(1) For the purposes of this section the following words have the meanings indicated.

(2) (i) "Marine sanitation device" means any equipment on board a vessel which is designed to receive, retain, treat or discharge sewage and any process to treat sewage on board.

(ii) "Marine sanitation device" includes:

- 1. Type I marine sanitation device, which produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids;
- 2. Type II marine sanitation device, which produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter; and
- 3. Type III marine sanitation device, which is certified to a no-discharge standard, including recirculating and incinerating marine sanitation devices and holding tanks.

(3) "Sewage" means:

(i) Human body wastes; and

(ii) The wastes from toilets and other receptacles intended to retain body waste.

(4) "Y valve" means a device capable of diverting the flow of marine sewage so that a vessel's marine sanitation device is bypassed and raw sewage is discharged directly into the water.

(b) Type of device.- The following vessels equipped with an installed toilet shall be equipped with an operable marine sanitation device:

- (1) A vessel 65 feet in length and under shall have a type I, II, or III marine sanitation device; or
- (2) A vessel over 65 feet in length shall have a type II or III marine sanitation device.

(c) Certification label.-

(1) A type I or type II marine sanitation device shall have a certification label affixed that at a minimum shows:

- (i) The name of the manufacturer;
- (ii) The name and model number of the device;
- (iii) The month and year of manufacture;
- (iv) The marine sanitation device type;
- (v) A certification number; and
- (vi) A certification statement.

(2) A type III marine sanitation device is automatically certified, and requires no label, provided it stores sewage and flushwater only, at ambient air temperature and pressure.

(d) Duty of operator.-

(1) While a vessel with an installed toilet is on Maryland waters, the operator shall insure that:

- (i) All pathways for overboard discharge of vessel sewage from any vessel with a type III marine sanitation device are blocked or secured in such a way as to prevent any accidental or intentional vessel sewage discharge, by disconnecting or physically blocking those onboard sewage lines or hull fittings which would allow for overboard vessel sewage discharge; and
- (ii) Any installed in-line Y valve shall be secured to prevent the overboard discharge of sewage from any vessel utilizing a type III marine sanitation device, by bypassing, locking, securing, or disabling the valve using a padlock or nonreusable wire tie wrap, or by removal of the valve handle, or by any other method in accordance with federal regulations and standards or as approved or required by the Department.

(2) The chosen compliance method under paragraph (1) (ii) of this subsection shall totally eliminate the possibility of overboard vessel sewage discharge while in waters of the State. The method chosen shall present a physical barrier to the use of the Y valve, whether accidental or intentional, so that use of the valve cannot occur without the knowledge of the operator of the vessel.

(e) Leased vessel.- For any vessel offered as a noncaptained charter, the leasing entity shall:

- (1) Ensure that the vessel complies with this section when presented to the lessor; and
- (2) Include in the lease agreement, signed by the leasing party, a paragraph outlining the operator's responsibilities under this section.

(f) Penalty.- A person who violates a provision of this section is subject to a civil penalty not exceeding \$2,000.

History

[1994, ch. 679.]

Annotations

Editor's note. Section 2, ch. 679, Acts 1994, provides that "this Act shall take effect July 1, 1997, contingent on the taking effect of Chapter _ (S.B. 325) of the Acts of the General Assembly of 1994, and if Chapter _ does not become effective, this Act shall be null and void without the necessity of further action by the General Assembly." Senate Bill 325 was enacted as ch. 478, Acts 1994.

Bill review letter. Chapter 679, Acts 1994 (House Bill 1489), was approved for constitutionality and legal sufficiency, although it was determined that its administration should be monitored for compliance with the conditions of the Clean Water Act. (Letter of Attorney General dated May

20, 1994).

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